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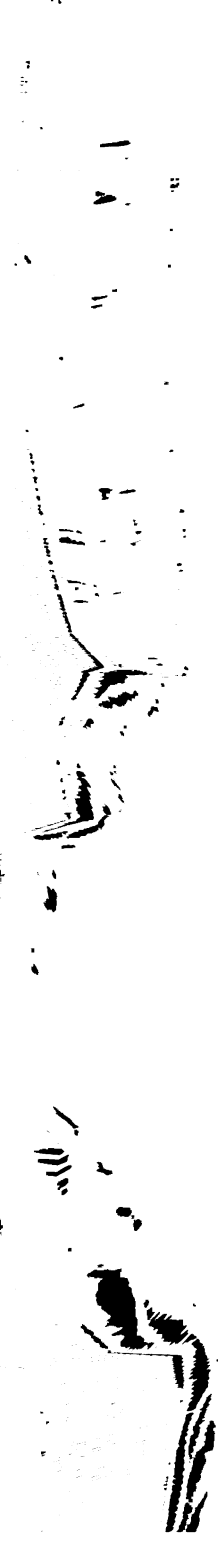


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George Bancroft

Virginia
State



4384

THE
Statutes at Large;
BEING
A COLLECTION
OF ALL THE
LAWS OF VIRGINIA,
FROM THE
FIRST SESSION OF THE LEGISLATURE,
IN THE YEAR 1619.

PUBLISHED PURSUANT TO AN ACT OF THE GENERAL ASSEMBLY
OF VIRGINIA, PASSED ON THE FIFTH DAY OF FEBRUARY,
ONE THOUSAND EIGHT HUNDRED AND EIGHT.

—:•:—
VOLUME XII.

—:•:•:•:—
By WILLIAM WALLER HENING.
—:•:•:•:—

“The *Laws* of a country are necessarily connected with every thing be-
longing to the people of it: so that a thorough knowledge of *them*, and
of their progress would inform us of every thing that was most use-
ful to be known about them; and one of the greatest imperfections
of historians in general, is owing to their ignorance of law”

PRISTLEY'S LECT. ON HIST. VOL. I. pa. 149.

RICHMOND:
PRINTED FOR THE EDITOR,
By GEORGE COCHRAN.

1823.

Checked
May 1913

We, Robert G. Scott, and William Robertson, members of the Executive Council of Virginia, do hereby certify, that the laws contained in the twelfth volume of *HARRIS'S Statutes at Large*, have been by us, examined and compared with the originals from which they were taken, and have been found truly and accurately printed, except as to the following list of errata, to the number of twenty-seven. Given under our hands this 8th day of November, 1823.

ROBERT G. SCOTT,
WM. ROBERTSON.

Page 90, line 4 from bottom, should be top line of page 91.

- | | | |
|-------|-------------------|---|
| 49, | 4 | strike out "to" after "join." |
| 123, | 4 | for "hose" read "house." |
| 137, | 13 from top, | insert "of" between "board" and "any." |
| 138, | 4 | for "parenay" read "parcenery." |
| 143, | 3 | after the word "kin" strike out "shall." |
| 151, | 10 from bottom, | for "state" read "estate." |
| 160, | 2 from top, | strike out "a" before "term." |
| 195, | 11 | for "foeage" read "socage." |
| 199, | 18 | after "write" insert "down." |
| 262, | 18 from bottom, | for "handicraft" read "handycraft." |
| 325, | 10 | for the second "it" read "is." |
| 375, | 23 | for "o" read "of." |
| 397, | | in the title, for "remens" read "regiment." |
| 426, | 24 from top, | for "fund" read "funds." |
| 449, | 8 from bottom, | for "mistate," read "mistake." |
| 561, | 4 | for "issued" read "issues." |
| 587, | 6 | for "lawfu" read "lawful." |
| 596, | 6 and 7 from top, | for "purchaser" read "purchasers." |
| 612, | 3 | insert "to" before "be." |
| Ibid. | 3 from bottom, | for "beeo" read "been." |
| 695, | 3 | strike out one "under." |
| 735, | 14 from top, | for "hopen" read "happen" |
| 746, | 19 | for "ascertain" read "ascertaining." |
| 767, | 23 from bottom, | strike put "dele." |
| 793, | 22 | for "companp" read "company." |
| Ibid. | 2 | for "papment" read "payment." |



PREFACE

TO THE

Twelfth Volume of the Statutes at Large.

THE contents of this Volume are very interesting. Among the acts of 1785 and 1786, will be found, passed into laws, the most important bills, reported to the legislature in 1779, by the committee of revisors appointed by the act of 1776.* At the session of 1786, an act passed, appointing a committee to take into consideration such of the bills, contained in the revisal, prepared and reported by the committee, appointed for that purpose, in the year 1776, as had not been enacted into laws.† This was superseded by the act of 1789, concerning a new edition of the laws, which was the foundation of the revisal of 1792.

WILLIAM WALLER HENING.

* See Vol. 9, pa. 175.

† See pa. 409.

List of Governors of Virginia during the period comprised in this Volume.

Patrick Henry, esq. **PATRICK HENRY, Esq.** was elected, a second time, governor of Virginia, in December 1784, and continued until December 1786, when Edmund Randolph, esq. was elected.

Edmund Randolph, esq. **EDMUND RANDOLPH, Esq.** continued governor until December 1788, when Beverley Randolph, esq. was elected.

AT A

GENERAL ASSEMBLY

BEGUN AND HELD

At the Public Buildings in the City of Richmond, on Monday the seventeenth day of October in the year of our Lord one thousand seven hundred and eighty-five, and in the tenth year of the commonwealth.*

Patrick Henry, esq. governor.

CHAP. I.

An act to amend and reduce into one act, the several laws for regulating and disciplining the militia, and guarding against invasions and insurrections.

1. WHEREAS the defence and safety of the commonwealth depend upon having its citizens properly armed and taught the knowledge of military duty, and the different laws heretofore enacted being found inadequate to such purposes, and in order that the same may be formed into one plain and regular system;

* From the adoption of the constitution, until the present session, there had never been less than two sessions of the General Assembly, in each year, sometimes more, according to the exigencies of the government. By an act of May 1784, chap. XX. (See Vol 11, p. 387) the meeting of the General assembly was fixed for the third Monday in October, annually.—Ever since that period, the sessions have been annual, except, in a few instances, when the assembly has been convened, for special purposes, under the tenth article of the constitution.

VIZ. MR.

B

Officers displaced by a former act restored.

II. *Be it enacted by the General Assembly, That the officers of the militia who were displaced and removed from office, by virtue of an act "For amending the several laws for regulating and disciplining the militia, and guarding against invasions and insurrections," are hereby reinstated, and shall take precedence of rank agreeable to the dates of the commissions they severally held prior to the passing of the said act; and vacancies supplied by appointment of the governor, with the advice of the privy council, or recommendation from the respective county courts.*

Vacancies how supplied

Militia men & exempts described.

III. *And be it further enacted, That all free male persons between the ages of eighteen and fifty years, except the members of the council of state, members of the American congress, judges of the superior courts, speakers of the two houses of assembly, treasurer, attorney-general, auditors and their clerks, solicitor-general and his clerks, clerks of the council of state, and treasury, register of the land-office, his deputy and clerks, custom-house officers, all inspectors of tobacco, all professors, and tutors at the University of William and Mary, and other public seminaries of learning, all ministers of the Gospel, licensed to preach according to the rules of their sect, who shall have previously taken before the court of their county, an oath of fidelity to the commonwealth, post-masters, keepers of the public gaol and public hospital, millers, persons concerned at iron or lead works, or persons solely employed in repairing or manufacturing fire-arms, all of whom are exempted from the obligations of this act, shall be in-rolled or formed into companies, of three serjeants, three corporals, a drummer and fifer, and not less than forty, nor more than sixty-five, rank and file; and these companies shall again be formed into regiments of not more than one thousand, nor less than five hundred men, if there be so many in the county. Each com-*

Companies how to be formed.

Militia how to be officered.

Officers' oath.

pany shall be commanded by a captain, lieutenant, and an ensign; each regiment by a colonel, lieutenant-colonel, and major; and the whole by a county-lieutenant. These officers shall be resident within their county; and before they enter on the execution of their respective offices, shall take the following oath: "I do swear that I will be faithful and true to the commonwealth of Virginia, of which I profess myself to be a citizen; and that I will faithfully and justly execute the

office of a _____, in the militia of the county of _____, according to the best of my skill and judgment. So help me God." There shall be a private muster of every company once in two months, except December and January, at such convenient time and place as the captain or next commanding officer shall appoint; a muster of each regiment on some day in the month of March or April, in every year, to be appointed by the commanding officer thereof, at a convenient place near the centre of the regiment; and a general muster of the whole on some day in the month of October or November, in every year, to be appointed by the county-lieutenant, or commanding officer, at a convenient place near the centre of the county: For the times and places of the said musters, the county-lieutenant or commanding officer for the time being, shall give notice to the commanding officers of regiments; for the general muster, the commanding officers of regiments shall give notice to the commanding officers of their respective companies of such general muster and of his regimental muster; and the commanding officers of companies shall give notice of the general, regimental, and private musters, to every person of their respective companies, and to that end the commanding officers of companies shall have power to order so many of their serjeants as they shall think fit, to give such notice, which may be done by personal summons by the said commanding officer, or serjeant so ordered, or by either of them, leaving notice in writing at the usual place of abode of the person to be summoned: The notices to be given by the commanding officer of the county, and commanding officers of regiments, shall be in writing, delivered in person, or left at the usual place of abode of each person, to be notified either by such commanding officers themselves, or by such officer or officers of their respective commands as they may think fit to order; the said notices shall be given by the commanding officer of the county, to the commanding officers of regiments at least thirty days; by the commanding officers of regiments at least fifteen days; and by the commanding officers of companies at least five days, before such general, regimental, or private musters (as the case may be) shall be appointed to be had. Any officer ordered as aforesaid to give such notices, failing therein, shall for every offence for-

Private muster.

Regimental muster.

General muster.

Notices of musters how and when to be given.

Penalties on failure to give notice.

Equipments
of officers &
soldiers.

Exception as
to those be-
yond the Blue
Ridge.

Poor privates
how to be
armed.

Penalty on
him for sell-
ing, &c. his
arms.

feit and pay five pounds; and every serjeant so failing shall forfeit and pay one pound for every such failure; to be recovered as other fines hereafter to be established. Every officer and soldier shall appear at his respective muster-field on the day appointed, by eleven o'clock in the forenoon, armed, equipped, and accoutred, as follows: The county-lieutenants, colonels, lieutenant-colonels, and majors, with a sword, the captains, lieutenants and ensigns, with a sword and esponton, every non-commissioned officer and private with a good, clean musket carrying an ounce ball, and three feet eight inches long in the barrel, with a good bayonet and iron ramrod well fitted thereto, a cartridge box properly made, to contain and secure twenty cartridges fitted to his musket, a good knapsack and canteen, and moreover, each non-commissioned officer and private shall have at every muster one pound of good powder, and four pounds of lead, including twenty blind cartridges; and each serjeant shall have a pair of moulds fit to cast balls for their respective companies, to be purchased by the commanding officer out of the moneys arising on delinquencies. *Provided*, That the militia of the counties westward of the Blue Ridge, and the counties below adjoining thereto, shall not be obliged to be armed with muskets, but may have good rifles with proper accoutrements, in lieu thereof. And every of the said officers, non-commissioned officers, and privates, shall constantly keep the aforesaid arms, accoutrements, and ammunition, ready to be produced whenever called for by his commanding officer. If any private shall make it appear to the satisfaction of the court hereafter to be appointed for trying delinquencies under this act that he is so poor that he cannot purchase the arms herein required, such court shall cause them to be purchased out of the money arising from delinquents. The arms so purchased, shall by the commanding officer of the county, be delivered to the captain of the company to which such poor private may belong, who shall deliver such arms to the private, but they shall continue the property of the county; and if any private shall sell or conceal the same, the seller, concealer, and purchaser, shall each forfeit and pay four pounds, to be recovered by the commanding officer in any court of record, on ten days notice. And on the death, disability, or exemption of such poor pri-

vate, or his removal out of the county, such arms shall be delivered to the commanding officer of the company, who shall make report thereof to the next court to be held, as aforesaid, and deliver the same to such other poor private, as they shall direct. And if any poor private shall remove out of the county, and carry such arms with him, he shall incur the same penalty as if he had sold them. And if any person concerned in selling, purchasing, concealing or removing such arms, shall be prosecuted for the penalty, and upon conviction, shall fail to make instant payment, or give security to pay the same in such time as the court shall deem reasonable, he shall suffer such punishment as the court before whom the recovery shall be made may think fit. And the lieutenant or commanding officer for the time being, of any county, may recover any arms so sold, concealed, or removed, by action or petition, in detinue or trover, with costs. And to the end that such arms may be known, the commanding officer shall cause to be stamped or engraved on them, the name of the county, together with the number of the regiment to which they may belong. At every muster, each captain or commanding officer of a company, shall call his roll, examine every person belonging thereto, and note down all delinquencies occurring therein, and make return thereof at the next regimental or general muster, to the colonel or commanding officer of his regiment, including those which may occur on that day. Every colonel or commanding officer of a regiment, shall in like manner call his roll, examine and note down all delinquencies in his regiment, and make return thereof, together with those reported from commanding officers of companies, to the county lieutenant or commanding officer, within ten days after every general and regimental muster, who shall lay the whole, together with the delinquencies occurring to him on the like examination, before the court hereafter appointed to take cognizance of and determine on them; provided that the commanding officer of a county, or of a regiment, shall not be obliged to extend their roll calls, or individual examinations, beyond the officers, unless they observe some apparent necessity therefor. And to each of the said returns shall be annexed the following certificate, to wit: "I ——— do certify that the returns hereunto annexed, contain all delinquencies which have occurred

Duty of officers at musters.

in the militia of my county, the ——— regiment, or ——— company of ——— regiment (as the case may be) since the last return, having examined the same as the law directs;" and to the county and regimental return shall be added "And that the reports which accompany them are all which have been made by the commanding officers of regiments or companies (as the case may be.)" Every captain or commanding officer of a company shall, within ten days after every regimental and general muster, make up and report to the commanding officer of his regiment, a return of his company, including all arms, ammunition, and accoutrements, by this act directed, distinguishing effective and good, from non-effective and bad, noting therein such as have died, removed, been exempted, or added, and all persons within the bounds of his company not on his roll, who ought to be inrolled. The commanding officer of each regiment shall, within fifteen days after every general muster, make the like return to the commanding officer of the county, who shall, within forty days thereafter, make the like return of the whole of his militia to the governor. Each captain or commanding officer of a company, shall, within ten days after receiving his commission and qualifying, as aforesaid, inroll all persons within his district, directed by this act to be inrolled, and shall appoint to his company, three sergeants, three corporals, a drummer and fifer, to be approved by the commanding officer of his regiment, and all vacancies which may thereafter happen, shall be filled up by appointments in like manner. In all cases of death, absence, or resignation of any county-lieutenant, colonel, or captain, the next officer in rank in his respective command shall be considered as the commanding officer during the vacancy, and liable to perform the duties required by this act, and for neglect therein, shall incur the penalties annexed thereto. And whereas, it will be of great utility and advantage in establishing a well disciplined militia, to annex to each regiment a light company to be formed of young men, from eighteen to twenty-five years old, whose activity and domestic circumstances will admit of a frequency of training, and strictness of discipline, not practicable for the militia in general, and returning to the main body, on their arrival at the latter period, will be constantly gir-

Duty of captains as to returns.

Of the commanding officer of a regiment.

Of a county.

Captains duty as to enrollments.

As to appointments.

Next officers duty on vacancy.

Establishment of a light company.

ing thereto a military pride and experience, from which the best of consequences will result:

IV. *Be it therefore enacted*, That the governor, with the advice of council, shall issue commissions for a captain, lieutenant, and ensign to each regiment, in the same manner as is herein directed in this act; and the said companies shall be distinguished by the following words, "*Light Company of _____ Regiment of _____ Militia*," filling up the blanks with the number of the regiment and name of the county. Every person belonging to the said light companies, shall wear while on duty, such caps and uniforms as the executive shall direct, to be purchased by the commanding officer of the county, out of the monies arising on delinquents. The captain thereof shall, after qualifying as is directed for other officers, proceed to enlist by voluntary enlistments, in his company, a sufficient number of young men, as before described, and shall have a private muster twice in every three months. And as the men of such light company shall from time to time arrive at the age of twenty-five years, the captain shall make report thereof to the county-lieutenant, who shall order them to be enrolled in the company whose districts they may respectively live in; and deficiencies shall be supplied by new enlistments. And the said companies shall in all respects be subject to the same regulations and orders as the rest of the militia.

V. *And be it further enacted*, That the plan of major-general Baron Steuben, established in congress by their act bearing date the twenty ninth day of March, one thousand seven hundred and seventy-nine, for forming and disciplining the troops of the United States, shall be the guide for the militia of this commonwealth. It shall be the duty of every commander of a county, regiment, and company, at every of their respective musters, to cause the militia to be exercised and trained agreeable to the said plan, under pain of being arrested and tried for breach of their duty; and for this purpose, the said officers are hereby authorized to order the most expert and fit officer in their respective companies, to perform that duty. And to the end, that a general knowledge thereof may be diffused, the executive is hereby authorized and required, to have a sufficient number of copies of the said plan printed and bound in boards, to afford to every commissioned offi-

Steuben's discipline adopted.

Captains duty in training.

Steuben to be delivered to each commissioned officer

cer of the militia, one, and to deliver them to the commanders of counties, to be by them distributed; and upon the death, resignation, or removal of any officer, the plan delivered him shall revert to the public; and the commanding officer for the time being, shall deliver the same to a new appointed officer who may not have received one; and for defraying the expence of so doing, shall draw on the contingent fund.

Time for procuring arms.

Officer when to be arrested.

Non-commissioned officer and soldier how to be punished.

Ry-stander how to be punished.

Colours, &c. how to be procured.

Executive empowered to call forth the militia.

When.

VI. *And be it further enacted,* That two years after the commencement of this act, shall be allowed for providing the arms and accoutrements herein directed; but in the mean time, the militia shall appear at musters with, and keep by them, the best arms and accoutrements they can get. Any officer who shall be guilty of disobedience, or other misbehaviour when on duty, or shall at any time be guilty of any conduct unbecoming the character of an officer, shall be put under an arrest by his commanding officer, and tried as hereafter shall be directed. If any non-commissioned officer or soldier shall behave himself disobediently or mutinously when on duty, on, or before any court or board directed by this act to be held, the commanding officer, court, or board, may either confine him for the day, or cause him to be bound neck and heels for any time not exceeding five minutes. If any byestander shall interrupt, molest, or insult any officer or soldier while on duty at any muster, or shall be guilty of the like conduct before any court or board, as aforesaid, the commanding officer, or such court or board may cause him to be confined for the day. The lieutenant or commanding officer of a county, shall cause to be purchased, out of the money arising from the fines, for every regiment in his county, the usual sets of colours, with such devices thereon as the executive shall direct; also a drum and fife for each company; and on the colours and drum shall be marked, the name of the county, with the number of the regiment and company to which they belong.

And whereas it is necessary that adequate powers be vested in the executive for calling forth the militia and resources of the state, in cases of invasion or insurrection, or upon any probable prospect of such invasion or insurrection:

VII. *Be it further enacted,* That the governor with the advice of the council, be authorized and empowered,

on any such invasion or insurrection, or probable prospect thereof, to call forth such a number of militia and, from such counties, as they may deem proper. And for the accommodation, equipment, and support of the forces, so at any time to be called forth, the governor, with the advice aforesaid, may appoint such quartermasters, commissaries, and other staff, as to them shall seem proper, and to fix their pay and allowances, and shall also take such measures for procuring, transporting, and issuing all stores which may be necessary, as to them shall seem best. Orders for the militia to be called forth, as aforesaid, shall be sent to the county lieutenant or commanding officer, with a notification of the place or places of rendezvous, who shall immediately take measures for detaching the same, with the necessary number and ranks of officers by detail and rotation of duty. If such detachment shall amount to one-third of a regiment, he shall send one field officer with it; if two-thirds of a regiment, two field officers; and if more than two-thirds, three field officers. The county lieutenant or commanding officer shall cause to be procured by impressment or otherwise, for each company, a waggon, team, and driver, six axes, and six camp-kettles or pots of convenient size, all which shall be delivered to the commanding officer of the company, who shall be accountable for returning the same when his tour is over: and the articles aforesaid shall be returned to the owners, who shall be allowed for the use of the same whatever may be adjudged by the court hereinafter appointed for enquiring into delinquencies. And to the end, that if any article impressed, be lost, the owner may be paid for the same, the county lieutenant or commanding officer shall cause all property by him impressed by virtue of this act, to be valued by two or more disinterested freeholders, on oath, before the same shall be sent away: and upon proof being made to the said court of any article being lost, the valuation thereof shall be allowed, without any allowance for the use, and the said allowance shall be certified to the auditors of public accounts. The said court shall make enquiry into the cause of such loss, and if it shall appear that the said loss was occasioned by the misconduct or inattention of any officer, the county lieutenant or commanding officer is hereby authorized to prosecute a suit against such of-

To appoint staff.

How to call forth.

County-lieutenant's duty in sending officers.

In impressments.

Hire to be paid for impressed articles.

Lost articles how to be paid for.

Executive
when to ap-
point field
officers.

When to ap-
point a briga-
dier.

County lieu-
tenant's duty
on invasion &
insurrection.

Militia in ac-
tual service,
how to be go-
verned.

Pay and ra-
tions of mili-
tia.

ficer for the recovery of damages for the use of the commonwealth. If it shall appear to the executive, upon calling forth the militia, as aforesaid, that the necessary number and ranks of officers will not attend the detachments for regimenting and officering them at the places of rendezvous, the governor, with advice of the council, is hereby authorized to appoint such field officers as may be necessary, from the counties called upon, as they may think proper, to join the forces so raised; and the senior officer shall arrange and command the whole, and appoint the usual regimental staff. And if a general officer, or officers, shall, in the opinion of the executive, be necessary, either on account of the number of troops or importance of the service, the governor, with advice of the council, shall appoint and commission, one or more brigadiers general, for the then existing occasion, who are hereby authorized to appoint, each, an aid-de-camp, brigade major, and brigade quarter-master. If a sudden invasion shall be made into any county in this commonwealth, or in case of an insurrection in any county, the county lieutenant is hereby authorized and required to order out the whole, or such part of his militia as he may think necessary, and in such manner as he may think best for repelling or suppressing such invasion or insurrection; and shall call on the lieutenants or commanding officers of the adjacent counties, for such aid as he may think necessary, who shall forthwith in like manner furnish the same. And for assembling the militia required upon such occasions, or by orders of the executive, the same measures shall be taken to summon them, as is directed in the case of musters. Whenever any militia shall be called forth into actual service, as aforesaid, they shall be governed by the articles of war which were last in force in the continental army during the last war; and courts-martial shall be held as are therein directed; but to the cashiering of any officer, or capital punishment of any person, the approbation of the executive shall be necessary. And whenever any militia shall be in actual service, they shall be allowed pay and rations, as follows, to commence from the time of rendezvousing in their counties, and to end, on being discharged, to wit: A brigadier general, one hundred dollars per month, and twelve rations of provisions and five rations of forage for himself and family, per day; an aid-

de-camp, thirty dollars per month; a colonel, seventy five dollars per-month, and six rations of provisions and two rations of forage, per day; a brigade major, thirty dollars per month, four rations of provisions and two rations of forage, per day; a brigade quarter-master, thirty dollars per month, and three rations of provisions and one ration of forage per day; a lieutenant colonel, sixty dollars per month, and five rations of provisions and two rations of forage per day; a major, fifty dollars per month, and four rations of provisions and two rations of forage, per day; a captain, forty dollars per month, and three rations of provisions, per day; a lieutenant, twenty-seven dollars and two-thirds per month, and two rations of provisions, per day; an ensign, twenty dollars per month, and two rations of provisions, per day; a surgeon, sixty dollars per month, and three rations of provisions and two rations of forage, per day; a quarter-master, twenty dollars per month, and two rations of provisions and one ration of forage, per day; a pay-master, forty dollars per month, and two rations of provisions and one ration of forage, per day; an adjutant, twenty-four dollars per month, and two rations of provisions and one ration of forage, per day; a quarter-master serjeant, eight dollars per month, and one ration per day; a serjeant, eight dollars per month, and one ration per day; a corporal, seven dollars per month, and one ration per day; a private, five dollars and one half dollar per month, and one ration per day. And should any of the staff be of the line, the allowances herein given shall include what they may receive in the line. A ration of provisions shall consist of one pound of fresh beef or pork, or three quarters of a pound of salt pork, one pound of wheat bread or flour, or one pound and a quarter of corn meal, one gill of rum, when to be had, and one quart of salt, one quart of vinegar, two pounds of soap, and one pound of candles, to every hundred rations; but in case salt meat be issued, the salt to be withheld; and a ration of forage, of ten quarts of corn or oats, and fourteen pounds of hay or fodder. And moreover, every militia-man, upon his discharge from actual service, shall be entitled to and receive one day's pay for each twenty miles such place of discharge shall be distant from his place of abode. And should the executive at any time find it expedient to retain the

whole or any part of the rations of provisions or forage herein allowed to officers, and to allow a composition in money, they are hereby empowered to do so.

Patrollers.

VIII. *And be it further enacted,* That the commanding officer of the militia in every county, shall from time to time, as he shall deem it necessary, appoint an officer, and so many men of the militia as to him shall appear necessary, not exceeding four, once in every month, or oftener, if thereto required by such officer, to patrol and visit all negro quarters and other places suspected of entertaining unlawful assemblies of slaves, servants, or other disorderly persons, as aforesaid, unlawfully assembled, or any others strolling about from one plantation to another, without a pass from his or her master, mistress, or owner, and carry them before the next justice of the peace, who, if he shall see cause, is to order every such slave, servant, stroller, or other disorderly person, as aforesaid, to receive any number of lashes, not exceeding twenty, on his or her back; and in case one company of patrollers shall not be sufficient, to order more companies for the same service. And after every patrol, the officer of each party shall return to the captain of the company to which he belongs, a report in writing upon oath (which oath such captain is hereby empowered to administer) of the names of those of his party who were upon duty, and of the proceedings in such patrol; and such captain shall once in every month deliver such patrol-returns to the commanding officer of the militia, by whom they shall be certified and delivered to the next court-martial; and if they shall adjudge the patrollers to have performed their duty according to law, the chief officers shall certify the same to the county court, who are thereupon empowered and required to levy twenty pounds of tobacco, or three shillings for every twelve hours each of them shall so patrol. And every commanding officer failing to appoint patrollers according to the directions of this act, shall forfeit and pay ten pounds; and every person appointed to patrol, failing to do his duty, shall forfeit and pay twenty shillings for every such failure; which fines shall be laid, collected, accounted for, and appropriated, as is tain tribunals, be described and instituted for the trial herein directed, for laying, accounting for, and appropriating the several fines and penalties by this act directed. And whereas it is necessary that cer-

**Courts for
trying officers**

of offences, as they are to be viewed in a military light, as well as for enquiring into delinquencies and assessing fines thereon.

IX. *Be it therefore enacted,* That the governor, with the advice of council, shall have power to arrest the county-lieutenant, or commanding officer of a county, and all other officers, for any misconduct whatever, and upon trial and conviction, may censure or cashier them. Governors power over county lieutenant. All officers under the county-lieutenant, or commanding officer of a county, may also be arrested by such commanding officer, and reported to the governor for trial, or at the option of such commanding officer, a general court-martial, to consist of thirteen officers, may, by his order, be held in the county for trial of such as shall be under the rank of a field-officer. County-lieutenants power over officers. The president of the said court shall be a field-officer, and six at least of the members shall be captains; and where there is not a sufficient number of officers in any county to constitute a court, where the arrest is made, the commanding officer of such county may call upon as many officers from the adjacent counties as will be sufficient to make up a court, and such court may, on conviction, censure or cashier any officer so tried, and their sentence shall be final; saving to such officer an appeal to the executive if he shall think proper, in which case the commanding officer shall furnish him with a copy of the proceedings of the said court. Any non-commissioned officer or soldier offending, shall be tried by a like general court-martial, and may, on conviction, be censured or fined, at the discretion of the court. Courts martial how to be constituted. For obtaining the necessary evidence for the trials aforesaid, the governor, or commanding officer of the county (as the case may be) shall issue his summons, and any person so summoned, failing to attend, shall forfeit and pay, upon a summons from the governor, ten pounds, and upon a summons of the commander of a county, five pounds; to be reported by the commanding officer amongst other delinquencies, to the court aforesaid.

X. *And be it further enacted,* That the commander of a county shall, on some day in the months of May and November (his general muster being over) summon all his field-officers and captains, a majority of whom, one being a field-officer, shall form a court of en- Court of enquiry and assessment of fines, how to be constituted. quiry and assessment of fines. The said court shall take the following oath, to be administered by any one

of the field-officers to the other members, and afterwards by any one of them to him, to wit: "I ——— do swear that I will truly and faithfully enquire into all delinquencies which appear on the returns to be laid before me, and will assess the fines thereon as shall seem just, without favour, partiality, or affection. So help me God."—

The county lieutenant shall then lay before the said court, all the delinquencies as directed by this act, whereupon they shall proceed to hear and determine on them. All fines to be assessed by virtue of this act, shall be collected by the sheriff of the county, upon a list thereof certified by the commanding officer, and delivered to the sheriff on or before the first day of January, in every year, who shall account for the same to the county-lieutenant or his successor, in the manner directed, and be allowed the same commission as for other public monies, on or before the first day of November in the same year, and on failure, the commanding officer, or his successor, shall, on ten days previous notice, obtain judgment for the same in the county court, with costs. And should any person so charged with fines, fail to make payment on or before the first day of May, in any year, the sheriff is hereby authorized to make distress and sale therefor, in the same manner as is directed in the collection of the taxes.—

Fines, how to be collected;

how to be accounted for.

When distrained for.

When accounted for with the executive.

Forfeitures and delinquencies. County lieutenant.

The commanding officer of every county shall, on or before the thirty-first day of December, in every year, render to the executive an account upon oath, of all monies which have come into his hands by virtue of his office, and of his disbursements; and if there shall remain any money in his hands, the same shall be paid into the treasury, in aid of the contingent fund. And for enforcing obedience to this act,

XI. Be it enacted, That the following forfeitures and penalties shall be incurred for delinquencies, viz. By the county-lieutenant or commanding officer of a county, for failing to take any oath, to summon any court or board, to attend any court or board, to transmit any recommendation of an officer or officers to the governor, to deliver any commission or commissions, to appoint a general muster, to attend such muster armed as required, to report delinquencies, to make a general return of his militia to the governor, as is directed by this act, shall for each and every such offence or neglect, forfeit and pay twenty pounds; failing to send into actual service any militia called for by the

governor, or to turn out his militia upon an invasion or insurrection of his county, fifty pounds: By a colonel, for failing to take any oath, to attend any court or board, to appoint a regimental muster, or give notice of any general muster, to examine his regiment, to report delinquencies, or to make any return, as directed by this act, he shall forfeit and pay for each and every offence or neglect, ten pounds; failing to call forth from his regiment, with due dispatch, any detachment of men and officers, armed and equipped, as shall from time to time be required by the commanding officer on any call from the governor, invasion of, or insurrection in his county, or requisition of any neighbouring county, twenty-five pounds: Lieutenant-colonel or major, for failing to take any oath, to attend any court or board, to attend any muster armed as is herein directed, they shall respectively for each and every such offence or neglect, forfeit and pay eight pounds; failing to repair to their rendezvous when summoned upon any call of the governor, invasion of, or insurrection in the county, or requisition of the commander of a neighbouring county, they shall each forfeit and pay sixteen pounds: By a captain, for failing to take an oath, to attend any court, to enroll his company, to appoint private musters, to give notice of a general or regimental muster, to attend any muster armed, to call his roll, examine his company, and report delinquencies, to make any return, as directed by this act, he shall forfeit and pay for each and every such offence and neglect, six pounds; failing to call forth such officers and men, as the commanding officer from time to time shall order from his company, upon any call from the governor, invasion of, or insurrection in the county, or requisition from an adjacent county, or failing on any such occasion to repair to the place of rendezvous, he shall forfeit and pay twelve pounds: By a subaltern officer, for failing to take any oath, to attend any court or muster, armed as directed, for each of the said offences he shall forfeit and pay three pounds; failing to repair to the place of rendezvous, armed as required, when ordered upon any call from the governor, invasion of, or insurrection in the county, or requisition from a neighbouring county, he shall forfeit and pay six pounds: And moreover, the said officers for any of the said offences, shall be liable to be arrested and

Colonel.

Captain.

Subaltern.

Non commis-
ed officers
and soldiers.

tried for the same as military offenders: By a non-commissioned officer or soldier, for failing to attend as any muster with the arms, ammunition and equipments, as directed by this act, he shall forfeit and pay ten shillings; failing to repair to his rendezvous when ordered upon any call from the governor, invasion of, or insurrection in the county, or requisition from a neighbouring county, he shall forfeit and pay two pounds.

Arms ex-
empted from
execution;
& men when
from arrest.

All arms, ammunition, and equipments, of the militia, shall be exempted from executions and distresses at all times, and their persons from arrests in civil cases, while going to, continuing at, or returning from musters, and while in actual service. Each court or board, by this act directed to be held, are empowered to appoint a clerk and provost-martial; such clerk shall keep a fair record of their proceedings, and together with the said provost-martial, receive such allowance, to be paid out of the fines arising from delinquencies, as the said court or board shall think reasonable. No arms or accoutrements, which may hereafter be lost in service, shall be paid for by the public, unless the loser shall be killed, wounded, or otherwise incapacitated in the opinion of a court-martial, from preserving his arms. The militia of the city of Williamsburg and borough of Norfolk, shall have their officers appointed and be under the same rules and regulations as the different counties.

Officers of
court.

Lost arms,
when to be
paid for.

Williams-
burg and
Norfolk.

Resignation
of officers.

XII. *And be it further enacted*, That the county-lieutenant or commanding officer of each county, is hereby empowered to receive the commission of any captain, or other inferior officer in his county, who may think proper to resign, and shall notify such resignation to the next succeeding court, in order that such vacancies may be then supplied: *Provided*, That nothing herein contained shall be construed or taken to deprive the people called quakers or menonists, of any privilege granted them by any former law. *Provided also*, That the governor, with advice of the council, is hereby empowered to suspend the operation of this act in the counties on the western waters, so long as they may think proper.

Quakers and
menonists.

Power to
suspend.

Repealing
clause.

XIII. All and every act and acts heretofore made for regulating and disciplining the militia, and guarding against invasions and insurrections, shall be, and the same are hereby repealed.

CHAP. II.

An act for the appointment of harbour masters, and declaring their duty.

I. WHEREAS it is represented that the appointment of harbour-masters would tend to the preservation of order and regularity in the several ports and harbours within this commonwealth,

Preamble.

II. *Be it enacted*, That the county and corporation courts within this state shall, and they are hereby authorized and empowered, to appoint so many persons as they may think necessary, to act as harbour-masters within their respective jurisdictions. And the person or persons so to be appointed, shall, previous to the entering on the said office, take the following oath before their county or corporation court: "I ——— do swear that I am a citizen of the commonwealth of Virginia, and that I will well and truly perform the duty of harbour-master to the best of my skill and judgment, without favor, affection, or partiality. So help me God."

Harbour-masters, how appointed.

Oath.

III. *And be it further enacted*, That the harbour-masters to be appointed by virtue of this act, shall have full and ample power to cause all ships and other vessels that may come within his district, to moor in such places as he shall judge most conducive for the general safety, and shall moreover direct the masters or commanders of vessels to rig in their jib-booms, or any other spars which may tend to obstruct the navigation. Any master or commander refusing to observe and comply with the said directions, shall forfeit and pay the sum of fifteen pounds, to the use of the commonwealth; and shall moreover be subject for any damages that may accrue in consequence of such refusal, to be recovered in any court of record within this commonwealth.

Powers and duty.

IV. *And be it further enacted*, That the harbour-master shall cause every ship or other vessel that may come within his district, to be properly moored within twenty-four hours after their several arrivals. Any harbour-masters failing to give directions for the mooring of any vessels within the time prescribed by this act, shall forfeit and pay fifteen pounds, for the use of

Penalty for neglect.

the commonwealth, to be recovered, by motion before the county or corporation court (as the case may be) on ten days previous notice, and shall moreover be liable to the action of the party injured, for any damages sustained in consequence of such neglect. And the harbour-master shall moreover attend to the unmooring of all ships and other vessels within their respective districts; and in case any vessel moored, shall, by stress of weather or other accident, be drove from her mooring, the harbour-master shall attend to the re-mooring the same, and be entitled to half fees for such service.

Fees.

V. *And be it further enacted*, That the harbour-masters shall demand, and be entitled to receive from all masters or commanders of square-rigged vessels, the sum of ten shillings, and for all schooners and sloops, the sum of six shillings, and no more: *Provided nevertheless*, That no master or commander of any river or bay craft, shall be subject to the payment of any fee by this act imposed.

VI. This act to commence and be in force from and after the first day of January, one thousand seven hundred and eighty-six.

CHAP. III.

An act to provide for the appointment of delegates to represent this commonwealth in congress, until the first Monday in November next.

Provision for appointing delegates to congress.

I. *BE it enacted by the General Assembly*, That five delegates shall be chosen by joint ballot of both houses, to represent this commonwealth in congress from the time of their appointment, until the first Monday of November, one thousand seven hundred and eighty-six, three of whom at least shall be constantly attending the duties of their office. The persons so appointed, shall each of them have from the governor a credential varied so as to suit the present occasion, and shall be en-

titled to the same allowances as are provided by an act, intituled "An act for regulating the appointment of delegates to congress."

CHAP. IV.

An act to provide for the poor of the several counties within this commonwealth.

I. *BE it enacted by the General Assembly, That the* Provision for the poor.
 court of every county within this commonwealth, at their session to be held in the month of March next after the passing of this act, shall cause their said county to be laid off into convenient districts, and shall direct the sheriff of their county to cause publication to be made, that on some convenient day to be appointed by the said court, an election will be held within each district, to consist of freeholders and house-keepers only, for the purpose of choosing three discreet, fit, and proper persons, being freeholders of and resident within the same, who shall be called and denominated overseers of the poor, and shall continue and be in office for and during the term of three years; at the expiration whereof other triennial elections shall be made in manner herein before directed; and the said court shall, at the same time, appoint some person in each district to superintend the election. Counties to be laid off into districts.
 And the said overseers, upon notice to them respectively being given by the person appointed in their district to superintend the election, of their being duly elected, they, or a majority of them shall meet together at some convenient place within their respective districts, between the first day of April, and the first day of August, in every year, and shall levy and assess upon the Overseers of the poor to be triennially elected.
 tidables within their said county (a copy of the list of which shall be furnished them by the clerk of the county) competent sums of money, or tobacco in lieu thereof at a stated price, to be paid at the option of the par- Superintendants of elections.
Overseers when to meet and assess levies on tidables.

ty chargeable therewith, for the necessary relief and support of all such poor, lame, impotent, blind, and other inhabitants of their said county as are not able to maintain themselves.

Monthly returns to poor overseers, to be appointed

Annual returns of the poor, and their allowances.

Levies, how collected and accounted for.

Powers of church-wardens, in relation to bastards, transferred to Overseers of

II. *And be it enacted*, That the overseers of the poor in each district, shall monthly make returns to the court of their county of the poor orphans in their district, and the said court is hereby authorized to direct the said overseers, or either of them, to bind out such poor orphans, apprentices to such person or persons as the court on due enquiry shall approve of, and the indentures of such apprentices shall be filed in the office of the clerk of the county, and not transferrable to any person whatsoever, without the approbation of the court. The said overseers shall, on or before the tenth day of August annually, make up in a book to be kept for that purpose, an exact account of the persons to and for whom such monies are to be paid, the purposes for which, and the particular sums, a transcript of which, they shall once in every year return to the court to be there entered of record; a copy of which they shall also, on or before the same day, deliver to the collector of the public taxes, who is hereby authorized and required to collect the same, together with the list of persons chargeable with the poor rates, and of the sum each person is liable to pay; which collector shall give bond with good security to the court for the faithful discharge of his duty herein, and shall have the same powers to collect the said poor rates, and have the same commission, and be subject to the same fines, forfeitures, and prosecutions, as in the case of county levies. The said collector shall pay the money or tobacco, as the case may be, to the several persons, or to their order, for whom it was levied, on or before the first day of October in every year; and in default thereof, it shall be lawful for the court of the county to render judgment for the same, with costs on complaint of the party, or on motion by the overseers: provided that the collector has ten days previous notice of such motion.

III. *And be it further enacted*, That the same power and authority given to, and vested in a churchwarden, by an act, intituled "An act for the relief of parishes from such charges as arise from bastard children born within the same," passed in the year of our Lord one

thousand seven hundred and sixty-nine, is hereby given to the several overseers of the poor respectively, who shall perform the same duties as by that act are required to be performed by a churchwarden. And the said overseers of the poor in each county, shall have power and authority to call on the late churchwardens in their counties or parishes, for a settlement of their parochial accounts, and shall receive any money in their hands belonging to the parish, heretofore levied for the support of the poor, to be applied to the debts contracted in support of the parish poor. And in case any churchwardens shall refuse to pay to the overseers of the poor in the county in which such churchwardens acted, the balance which shall appear to be in their hands on settlement being made, as aforesaid, it shall be lawful for the county court to render judgment for the same, with costs on complaint of the said overseers of the poor, or their attorney; provided such churchwarden shall have ten days previous notice of such motion. And the court of every county within this commonwealth shall be, and they are hereby authorized and required, whereof public notice shall be previously given by the sheriff, to levy and assess upon the tithable persons in their respective counties, all parish charges which shall have accrued since the last laying of the levy of the parishes within their respective counties, and before the first day of April next; and the collector of the public taxes shall collect and receive such levy, and pay the same to the person entitled thereto, shall have the same commission, and on refusal to pay, be liable to the same penalty and judgments as the collector of the poor rates is entitled and made liable to: And to prevent vagrants and others, not betaking themselves to honest occupations, becoming burthensome to the industrious and useful part of the community, it is necessary that the overseers in each district should be, and they are hereby empowered to compel and put all such to work, so long as such person or persons shall continue within their district and are likely to become chargeable to the county. And whereas, by the dissolution of the vestries, and abridging their future powers, no processioners of land can legally be appointed:

the poor; who are to call on church-wardens for a settlement.

Parochial debts, how paid.

Vagrants how disposed of.

Powers of vestries transferred to overseers of the poor.

IV. *Be it enacted*, That the overseers of the poor, appointed by this act, shall have the same powers, and are required to perform the same duty which was for-

merely prescribed for the different vestries, under the direction of the different county courts, who are hereby empowered and required to make the like orders; and observe the same rules, as is directed by the act, intitled "An act for settling the titles and bounds of lands, and for preventing unlawful hunting and ranging."

CHAP. V.

An act for the naturalization of the Marquis De La Fayette.

Preamble,

I. WHEREAS the Marquis De La Fayette is eminently distinguished, by early and signal exertions in defence of American liberty: And whereas this illustrious nobleman continues to afford testimonies of unceasing affection to this state, and the general assembly being solicitous to bestow the most decisive mark of regard which a republic can give:

Marquis De
La Fayette
naturalized,

II. *Be it enacted*, That the Marquis De La Fayette be henceforth deemed and considered a citizen of this state; and that he shall enjoy all the rights, privileges, and immunities, thereunto belonging,

CHAP. VI.

An act for securing to the authors of literary works an exclusive property therein for a limited time.

Copy-right of
literary works
how secured
to the authors

I. *BE it enacted by the General Assembly*, That the author of any book or pamphlet already printed, being a citizen of any one of the United States, who has not transferred to any other person or persons the copy or copies of such book, or pamphlet; share, or shares thereof,

his heirs and assigns, or the person or persons who have purchased or acquired such copy or copies, share or shares, in order to print or re-print the same, his heirs and assigns shall have the exclusive right of printing and re-printing such book or pamphlet, within this commonwealth, for the term of twenty-one years, to be computed from the first publication thereof; and that the author of any book or pamphlet already composed and not printed or published, or that shall hereafter be composed, being a citizen, as aforesaid, his heirs and assigns shall have the exclusive right of printing and re-printing such book or pamphlet, within this commonwealth, for the like term of twenty-one years, to be computed from the first publication thereof. And if any person or persons whatsoever, shall print, re-print, or cause to be printed or re-printed, within this commonwealth, any such book or pamphlet; or shall import into this commonwealth, from any foreign kingdom or state, any printed or re-printed copies of such book or pamphlet, without the consent of the author or proprietor thereof first obtained in writing, signed in presence of two credible witnesses at least; or who, knowing the same to be so printed, re-printed, or imported, without such consent first had and obtained, shall publish, sell, or expose to sale, or cause to be published, sold, or exposed to sale, any copy or copies of any such book or pamphlet; the person or persons offending herein, shall forfeit to the party injured, double the value of all the copies so printed, re-printed, or imported; or so published, sold, or exposed to sale; to be recovered at the suit of such party, in any court of record within this commonwealth.

II. *Provided nevertheless*, That no person shall be entitled to the benefit of this act, until he shall have registered the title of such book or pamphlet with the clerk of the council, and procured a certificate of such registry from the said clerk; which certificate the clerk is hereby required to give, taking only three shillings for his trouble.

CHAP. VII.

An act to impose additional tonnage on British vessels.

Additional
tonnage im-
posed on Bri-
tish vessels.

BE it enacted, That the several naval-officers shall, from and after the first day of February next, receive from the captain or commander of every ship or vessel trading to this commonwealth, owned wholly or in part by a British subject, at entrance five shillings per ton, including the tonnage heretofore imposed. And the naval officer of each district, where he has reason to suspect that any ship or vessel is registered at less tonnage than her real burthen, shall be empowered to go on board the said ship or vessel, and make a measurement of her agreeable to the carpenter's tonnage in this state; which said tonnage shall be accounted for, and paid into the treasury by the several naval-officers, in the same manner as the tonnage heretofore imposed.

This Act brot.
in & passed
in both houses
21. January
1786.
Joun. H. G. D.
154.

CHAP. VIII.

An act for reforming the county courts, and for other purposes.

County
courts re-
formed.

I. WHEREAS the methods hitherto established for the administration of justice within this commonwealth have proved ineffectual, and the various kinds of business cognizable by the county courts, render it necessary that certain sessions of the said court should be set apart for the trial of suits depending in the said courts, and other sessions, for the transaction of other business;

II. *Be it enacted*, That courts shall be held in each county, on the several days of holding courts in the respective counties, in the months of March, May, August, and November, in every year, for the trial of all suits at common law and in chancery, petitions for

Quarterly
courts.

debt, presentments, and criminal prosecutions; depending in the said courts; and if through sickness, or other disability, badness of weather, or other accident, it shall so happen that a sufficient number of justices shall not meet; for holding the said courts on the days herein before appointed; in any such case it shall and may be lawful for any one justice to adjourn the court from day to day, not exceeding three days, until a sufficient number can attend to hold a court.

Jurisdiction.

III. *And be it further enacted*, That all imparlances to be taken, and pleadings to be filed, and all proceedings to be had in suits depending in the county court, both in common law and in chancery, until an issue is joined, or interlocutory judgment or decree entered, shall be done at rules, to be held monthly, in the clerk's office, on such day as the court, at their quarterly sessions shall appoint; which rules and proceedings shall be fairly and distinctly entered in a book to be kept for that purpose; and the clerk shall be allowed the same fees for entering such rules, as if the entries had been made in court. And all rules to declare, plead, reply, rejoin, or for other proceedings, shall be given from month to month, and shall be made and entered with the clerk of the court in the same manner as the rules are made and entered with the clerk of the general court in suits depending in that court. *Provided nevertheless*, That the court may, at their quarterly session, which shall be held next after any of the said rules and proceedings to be had in the clerk's office, for good cause to them shewn, set aside any of the said rules and proceedings, and make such order concerning the same, as to them shall appear just and right. All original process to bring any person or persons to answer in any action, suit, indictment, or information in the said court, and all subsequent process thereon, all attachments, or other writs of what nature soever, all process in chancery, awarded by the said court, and all attachments issued by a magistrate, shall be returnable on the first day of the next succeeding quarterly court. Special bail may be taken in court, at the quarterly sessions; or any justice when the court is not sitting, may take recognizance of special bail in any action therein depending, which shall be taken *de bene esse*, and returned by the justice taking the same, to the clerk of the court, before the next suc-

Rules to be held in clerk's office.

Practice.

Power of court to controul rules.

Process.

Special bail.

Exception to
bail.

Proceedings
against com-
mon bail, and
sheriff.

Docketing
causes.

Depositions
of aged, in-
firm, absent,
or single wit-
nesses, or
those about
to remove;
how taken.

Witnesses
refusing to
give evi-
dence, may
be committed

ceeding quarterly court, to be filed with the papers in such action; and if the plaintiff, or his attorney, shall see cause to except to the sufficiency of the bail so taken, notice of such intended exception shall be given to the defendant, or his attorney, at least five days previous to the day on which such exception shall be taken; and if such bail shall be adjudged insufficient by the court, the recognizance thereof shall be discharged, and such proceedings shall be had as if no such bail had been taken. The same proceedings shall be had against the common bail in any suit, and the sheriff or either of them, and they or either of them, may have the same remedy against the defendant or his executors or administrators, in the county courts at their quarterly sessions as may be had in the general court in such cases.

The clerk shall proportion the causes upon the docket in the same manner as the clerk of the general court now does; from the first day of the court to the sixth, if in his opinion so many days will be expended in determining the causes ready for trial, and issue subpoenas for witnesses to attend on the days to which the causes stand for trial. When any witness resides out of this commonwealth, or shall be about to depart the same, or by age, sickness, or otherwise shall be unable to attend, the court upon affidavit thereof, the court when they are sitting, or any justice thereof in vacation, may, on request of either party, direct a commission to be issued by the clerk of the court, for taking the deposition of such witness, *de bene esse*, to be read as evidence at the trial, in case the witness shall then be unable to attend; but the party obtaining such commission, shall give reasonable notice to the other party of the time and place of taking such deposition, otherwise the same shall be void. If any party, in any suit at common law, or in chancery, shall make oath, that he verily believes his claim or defence (as the case may be) or a material point thereof, depends on a single witness, the court, or any justice thereof, may award a commission to take the deposition of such witness, *de bene esse*, although he or she be not about to depart the country, nor under any disability, the party in such case, giving reasonable notice of taking such deposition, to the adverse party. If any person summoned as a witness, and attending the court or commissioners appointed to take his or her deposition, as

aforesaid, shall refuse to give evidence on oath, or affirmation (as the case may be) to the best of his or her knowledge, every person so refusing, shall be committed to prison, either by the court or commissioners, there to remain without bail or mainprise, until he or she shall give such evidence. The county court at their quarterly session, are hereby empowered to proceed in the same manner against any defendant residing out of the country, or absconding to avoid being served with the process of such court, and shall have the same power over his estate and effects, as the high court of chancery now have and exercise in such cases; and may hear and determine all caveats against grants for land lying within the limits of the jurisdiction of the said courts respectively; except within the counties composing the district of Kentucky. The person entering any caveat, shall take from the surveyor of the county, before he shall return his plat and survey to the register's office, or from the register, after such return, a certified copy thereof, which within thirty days thereafter, shall be delivered to the clerk of the county, where the land lies, or such caveat shall become void; the said clerk, on receiving the same, shall enter it in a book, and thereupon issue a summons, reciting the cause for which such caveat is entered, and requiring the defendant to appear on the first day of the next succeeding quarterly court, and defend his or her right; and on such process being returned executed, the same proceedings shall be had thereupon as by law is directed to be had in such cases in the general court. All executions which shall hereafter be issued on judgments obtained in the county courts, shall be returnable to the succeeding quarterly session of the court of the county, wherein such judgment was or shall be obtained. And where any final judgment shall be entered up in the office against any defendant or defendants and their securities, or against any defendant or defendants, and sheriff by default, execution may issue thereupon, unless the same shall be set aside before the end of the second day of the quarterly session next succeeding the entering up such judgment, in like manner, and on such conditions, as office judgments in the general court may now be set aside.

Absent defendants, proceedings against.

Caveats, rules concerning.

Executions, when returnable.

Office judgments, when set aside.

IV. And be it further enacted, That the respective county courts shall sit in the months of January, February, April, June, July, September, October, and

Monthly courts.

December, in every year, on the respective days appointed by the laws now in force for holding the said courts in those months, for the transaction of all matters cognizable by the said courts, except suits in chancery; and causes properly triable by a jury in open court or points of law, upon demurrer; special verdicts, or cases agreed. The sheriff of each county shall, before every court of quarter sessions, summon twenty-four freeholders of his county, qualified as the law directs, for grand-jurors, to appear at the next succeeding court of quarter-sessions; which twenty-four men, or any sixteen of them, shall be a grand-jury, and shall enquire of and present all crimes, misdemeanors, or breach of penal laws, agreeable to an act of assembly, intituled "An act concerning juries," whatsoever, which shall be committed within their county, cognizable before the county courts.

Jurisdiction.

Grand juries.

Suits dismissed for non-attendance of attorneys, at their costs.

Attorneys receiving money for their clients, liable on motion.

V. *And be it further enacted*, That if any suit shall be dismissed for non-attendance of an attorney, practising either in the superior or inferior courts, not having a just and reasonable excuse, it shall be at his costs, and he shall moreover be liable for all damage his client shall sustain by such dismissal (or any other neglect of his duty) to be recovered in any court of record in this commonwealth. And every attorney receiving money for his client, and refusing to pay the same when demanded, shall, in a summary way, be proceeded against, on notice before any court of record, in the same manner as sheriffs are liable to be proceeded against, for money received on executions.

VI. *And be it further enacted*, That all and every other act and acts, clause and clauses, heretofore made for or concerning any matter or thing, within the purview of this act, shall be, and are hereby repealed; and this act shall commence, and be in force, from and after the last day of April next.

CHAP. IX.

An act concerning the erection of the district of Kentucky, into an independent state.

I. WHEREAS it is represented to be the desire of the good people inhabiting the district known by the name of the Kentucky district, that the same should be separated from this commonwealth whereof it is a part, and be formed into an independent member of the American confederacy, and it is judged by the general assembly that such a partition of the commonwealth is rendered expedient by the remoteness of the more fertile, which must be the more populous part of the said district, and by the interjacent natural impediments to a convenient and regular communication therewith.

Terms of which the district of Kentucky may be erected into an independent state.

II. *Be it enacted by the General Assembly,* That in the month of August next, on the respective court days of the counties within the said district; and at the respective places of holding courts therein, representatives to continue in appointment for one year, and to compose a convention, with the powers, and for the purposes hereinafter mentioned, shall be elected by the free male inhabitants of each county in like manner as delegates to the general assembly have been elected within the said district, in the proportions following: In the county of Jefferson shall be elected five representatives, in the county of Nelson five representatives, in the county of Fayette five representatives, in the county of Bourbon five representatives, in the county of Lincoln five representatives, in the county of Madison five representatives, and in the county of Mercer five representatives. That full opportunity may be given to the good people, of exercising their right of suffrage on an occasion so interesting to them, each of the officers holding such elections, shall continue the same from day to day, passing over Sunday, for five days, including the first day, shall cause this act to be read on each day, immediately preceding the opening of the election; at the door of the court-house, or other convenient place, and shall fix up two copies at least of this act in the most public situations at the place of

Convention, how chosen.

election, twenty days before the commencement thereof. Each of the said officers shall deliver to each person duly elected a representative a certificate of his election, and shall moreover transmit a general return to the clerk of the supreme court of the district, to be by him laid before the convention: For every neglect of any of the duties hereby enjoined on such officer, he shall forfeit one hundred pounds, to be recovered by action of debt, by any person suing for the same. The said convention shall be held at Danville, on the fourth Monday of September, and as soon as two-thirds of the representatives shall be convened, they shall and may proceed, after choosing a president and other proper officers, and settling the proper rules of proceeding, to consider, and by a majority of voices, to determine, whether it be expedient for, and be the will of the good people of the said district, that the same be erected into an independent state, on the terms and conditions following:

Conditions.

First. That the boundary between the proposed state and Virginia, shall remain the same as at present separates the district from the residue of the commonwealth.

Second. That the proposed state shall take upon itself a just proportion of the public debt of this commonwealth.

Third. That all private rights and interests in lands within the said district, derived from the laws of Virginia, prior to such separation, shall remain valid and secure under the laws of the proposed state, and shall be determined by the laws now existing in this state.

Fourth. That the lands within the proposed state of non-resident proprietors, shall not in any case be taxed higher than the lands of residents at any time prior to the admission of the proposed state to a vote by its delegates in congress, where such non-residents reside out of the United States; nor at any time either before or after such admission, where such non-residents reside within this commonwealth, within which this stipulation shall be reciprocal; or where such non-residents reside within any other of the United States, which shall declare the same to be reciprocal within its limits; nor shall a neglect of cultivation or improvement of any land within either the proposed state, or this commonwealth, belonging to non-resident citizens of the other, subject such non-residents to forfeiture or other penal-

ty, within the term of six years after the admission of the said state into the federal union.

Fifth. That no grant of land, nor land warrant to be issued by the proposed state, shall interfere with any warrant heretofore issued from the land-office of Virginia, which shall be located on land within the said district now liable thereto, on or before the first day of September, one thousand seven hundred and eighty-eight.

Sixth. That the unlocated lands within the said district, which stand appropriated by the laws of this commonwealth to individuals or descriptions of individuals, for military or other services, shall be exempt from the disposition of the proposed state, and shall remain subject to be disposed of by the commonwealth of Virginia, according to such appropriation, until the first day of September, one thousand seven hundred and eighty-eight, and no longer; and thereafter the residue of all lands remaining within the limits of the said district, shall be subject to the disposition of the proposed state.

Seventh. That the use and navigation of the river Ohio, so far as the territory of the proposed state, or the territory which shall remain within the limits of this commonwealth lies thereon, shall be free and common to citizens of the United States; and the respective jurisdictions of this commonwealth, and of the proposed state, on the river as aforesaid, shall be concurrent only with the states which may possess the opposite shores of the said river.

Eighth. That in case any complaint or dispute shall at any time arise between the commonwealth of Virginia and the said district, after it shall be an independent state, concerning the meaning or execution of the foregoing articles, the same shall be determined by six commissioners, of whom two shall be chosen by each of the parties, and the remainder by the commissioners so first appointed.

III. And be it further enacted, That if the said convention shall approve of an erection of the said district into an independent state, on the foregoing terms and conditions, they shall and may proceed to fix a day posterior to the first day of September, one thousand seven hundred and eighty-seven, on which the authority of this commonwealth, and of its laws, under the ex-

ceptions aforesaid, shall cease and determine for ever, over the proposed state, and the said articles become a solemn compact, mutually binding on the parties, and unalterable by either without the consent of the other. *Provided however,* That prior to the first day of June, one thousand seven hundred and eighty-seven, the United States in congress shall assent to the erection of the said district into an independant state, shall release this commonwealth from all its foederal obligations arising from the said district, as being part thereof; and shall agree that the proposed state shall immediately after the day to be fixed as aforesaid, posterior to the first day of September, one thousand seven hundred and eighty-seven, or at some convenient time future thereto, be admitted into the foederal union. And to the end that no period of anarchy may happen to the good people of the proposed state, it is to be understood that the said convention shall have authority to take the necessary provisional measures for the election and meeting of a convention at some time prior to the day fixed for the determination of the authority of this commonwealth, and of its laws over the said district, and posterior to the first day of June, one thousand seven hundred and eighty-seven, aforesaid, with full power and authority to frame and establish a fundamental constitution of government for the proposed state, and to declare what laws shall be in force therein, until the same shall be abrogated or altered by the legislative authority acting under the constitution, so to be framed and established.

IV. This act shall be transmitted by the executive to the delegates representing this commonwealth in congress, who are hereby instructed to use their endeavors to obtain from congress a speedy act, to the effect above specified.

CHAP. X.

*An act punishing certain offences,
and vesting the governor with cer-
tain powers.*

I. WHEREAS it is the true interest and policy of this commonwealth, that the constitution, sovereignty, and independence thereof, should at all times be maintained and supported, and it is highly criminal in any person or persons to alienate the citizens of the state from their attachment and allegiance to the same: Preamble.

II. *Be it therefore enacted by the General Assembly,* That every person or persons who shall erect or establish, or cause and procure to be erected or established, any government separate from or independent of the government of Virginia, within the limits thereof, unless by act of the legislature of this commonwealth for that purpose first obtained; or who shall in any such usurped government, hold or execute any office, legislative, executive, judiciary, or ministerial, by whatever name such office may be distinguished or called; or who shall swear or otherwise solemnly profess allegiance or fidelity to the same; or who shall under pretext of authority derived from or protection afforded by such usurped government, resist or oppose the due execution of the laws of this commonwealth; shall be adjudged guilty of high treason, and shall be proceeded against and punished in the same manner as other traitors may be proceeded against and punished by the laws now in force. High treason, to erect any government separate from and independent of Virginia, within its limits.

III. *And be it further enacted,* That every person who shall attempt to establish such government by any other means than with the assent of the legislature of this commonwealth, and in pursuance of such attempts, shall join with any other person or persons in any overt act for promoting such attempts, or who shall by writing, or advised speaking, endeavour to instigate the people of this commonwealth to erect or establish such government, without such assent as aforesaid, shall be adjudged guilty of a high crime and misdemeanor, and on conviction, shall be subject to such

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pains and penalties, not extending to life or member, as the court before whom the conviction shall be, shall adjudge.

Power of governor and council to suppress such combination.

IV. *And be it further enacted*, That in case any combination for establishing such government, shall become so powerful as to obstruct the due execution of the laws of this commonwealth in the ordinary course of proceeding, within any county or counties thereof, it shall and may be lawful for the governor with the advice of the council, to call out the militia of this state to suppress such combination, and to employ them in the same manner as he may do by law in cases of invasion or insurrection.

CHAP. XI.

An act to amend the act intituled An act for vesting in George Washington, esq. a certain interest in the companies established for opening and extending the navigation of James and Potowmack rivers.

Recital of the act, vesting certain shares in the James River and Potowmack companies, in Geo. Washington, esq.

I. WHEREAS by an act, intituled "An act for vesting in George Washington, esq. a certain interest in the companies established for opening and extending the navigation of James and Potowmack rivers," and reciting, "that whereas it is the desire of the representatives of this commonwealth to embrace every suitable occasion of testifying their sense of the unexampled merits of George Washington, esq. towards his country; and it is their wish in particular, that those great works for its improvement, which, both as springing from the liberty which he has been so instrumental in establishing, and as encouraged by his patronage, will be durable monuments of his glory, may be made monuments also of the gratitude of his country:" It is

enacted, "that the treasurer be directed in addition to the subscriptions he is already authorized to make to the respective undertakings for opening the navigations of Potowmack and James rivers, to subscribe to the amount of fifty shares to the former and one hundred shares to the latter, to be paid in like manner with the subscriptions above mentioned; and that the shares so subscribed be and the same are hereby vested in George Washington, esq. his heirs and assigns forever, in as effectual a manner as if the subscriptions had been made by himself or by his attorney." And whereas, the said George Washington, esq. in his letter addressed to the governor, which has been laid before the general assembly, hath expressed his sentiments thereupon, in the words following, to wit:—

"Your excellency having been pleased to transmit me a copy of the act appropriating to my benefit certain shares in the companies for opening the navigation of James and Potowmack rivers, I take the liberty of returning to the general assembly, through your hands, the profound and grateful acknowledgments, inspired by so signal a mark of their beneficent intentions towards me. I beg you, sir, to assure them, that I am filled on this occasion with every sentiment which can flow from a heart warm with love for my country—sensible to every token of its approbation and affection; and solicitous to testify, in every instance, a respectful submission to its wishes: With these sentiments in my bosom, I need not dwell on the anxiety I feel, in being obliged, in this instance; to decline a favour, which is rendered no less flattering by the manner in which it is conveyed, than it is affectionate in itself. In explaining this obligation, I pass over a comparison of my endeavours in the public service with the many honourable testimonies of approbation which have already so far over-rated and over-paid them; reciting one consideration only, which supersedes the necessity of recurring to every other. When I was first called to the station with which I was honoured during the late conflict for our liberties—to the diffidence which I had so many reasons to feel in accepting it, I thought it my duty to join to a firm resolution to shut my hand against every pecuniary recompence; to this resolution I have invariably adhered—from this resolution (if I had the inclination) I do not consider myself at liberty to de-

His letter declining the donation.

part. Whilst I repeat, therefore, my fervent acknowledgments to the legislature for their very kind sentiments and intentions in my favour, and at the same time beg them to be persuaded, that a remembrance of this singular proof of their goodness towards me, will never cease to cherish returns of the warmest affection and gratitude, I must pray, that their act, so far as it has for its object my personal emolument, may not have its effect: But if it should please the general assembly to permit me to turn the destination of the fund vested in me, from my private emoluments, to objects of a public nature, it will be my study in selecting these, to prove the sincerity of my gratitude for the honour conferred on me, by preferring such as may appear most subservient to the enlightened and patriotic views of the legislature." And whereas the desire of the general assembly to mark by the provision above mentioned, their sense of the illustrious merits of the said George Washington, esq. at the same time that it is strengthened by this fresh and endearing proof of his title to the gratitude of his country, is superseded by their respect for his disinterested wishes and patriotic views:

II. *Be it enacted*, That the said recited act, so far as it vests in George Washington, esq. and his heirs, the shares therein directed to be subscribed in his name, shall be, and the same is hereby repealed.

Shares to be appropriated to such objects of a public nature, as Gen Washington, by deed or will, may direct.

III. *And be it further enacted*, That the said shares with the tolls and profits hereafter accruing therefrom, shall stand appropriated to such objects of a public nature, in such manner, and under such distributions, as the said George Washington, esq. by deed during his life, or by his last will and testament, shall direct and appoint.

CHAP. XII.

An act to suspend the operation of the act, intituled An act for the establishment of the courts of assize.

BE it enacted by the General Assembly, That the operation of the act, intituled "An act for the establishment of courts of assize," be, and the same is hereby suspended until the first day of January, one thousand seven hundred and eighty-seven; and that in the mean time the general court shall proceed in all things, in the same manner as if the said act had never passed.

Act establishing court of assize, suspended.

CHAP. XIII.

An act empowering the governor, with the advice of the privy council, to grant conditional pardons in certain cases.

I. **BE** it enacted by the general assembly, That it shall be lawful for the governor, and he is hereby empowered, with the advice of the council of state, to pardon or relieve any person or persons adjudged or sentenced to suffer death for a felonious offence, upon such conditions of bodily labor to be performed by each person so pardoned or relieved, as to the governor, with the advice of council, shall seem proper. *Provided always,* That no conditional pardon shall be granted by the governor, for murder or treason.

Governor and council may grant pardon to criminals sentenced to death, on condition of performing labour.

II. *And be it further enacted,* That if any person pardoned or relieved by the executive, on condition of hard labour to be performed by such person, shall make his or her escape during the term of his or her condemnation to such labour, it shall and may be lawful for the governor, by proclamation, to declare such

In case of escape, the party to be identified and executed.

person to be out-lawed, and it shall thereafter be lawful for any person to kill or in any manner to destroy such out-law, without being liable to any pain or penalty for so doing; or to apprehend and return him or her to the public jail of this commonwealth, where he shall be safely kept until the next succeeding general court, when the attorney general shall cause the identity of such out-law to be ascertained by the verdict of a jury, which being found, the court shall direct their former sentence passed upon such person to be carried into execution, at any time within ten days after such sentence shall be revived.

Limitation of
act.

III. This act shall continue and be in force, from the passing thereof, until the last day of December, one thousand seven hundred and eighty-six, and no longer.

CHAP. XIV.

An act for better securing the revenue arising from customs.

Preamble.

I. WHEREAS many frauds have been practised and committed by the owners or commanders of vessels trading to this commonwealth, by their failing to enter the same according to law, whereby great loss has resulted to the public on the duties payable on goods, wares, and merchandize: For remedy whereof in future,

Vessels and
goods not en-
tered and du-
ties paid or se-
cured, liable
to seizure
and condem-
nation.

II. *Be it enacted*, That if the owner or commanding officer of any vessel trading to this state, shall fail to enter the same, together with her cargo, in the manner prescribed by law, and pay or secure to be paid the duties arising thereon, such vessel, together with her rigging, tackle, apparel, and furniture, and such part of the cargo as shall not have been duly entered, shall be liable to be seized by any person or persons who shall detect such vessel; to be prosecuted and condemned before the court of admiralty, one half to the

use of the informer, and the other half to the use of the commonwealth.

III. *And be it further enacted*, That the lower district of James river shall from and after the passing of this act, extend from Back river point up James river, including the several creeks and inlets thereof; and that the district of Elizabeth river shall commence at Cape Henry, and extend upwards on the south side of James river, including the several creeks and inlets thereof.

Lower district of James river, and district of Elizabeth river ascertained.

IV. *And be it further enacted*, That the governor, with advice of council, shall commission the necessary officers for the state boats *Liberty* and *Patriot*, and direct the number of men for each, together with so many searchers as they shall think necessary, and make a reasonable allowance to them for their services.

State boats *Liberty* and *Patriot*, to be put in commission.

V. *And be it further enacted*, That the naval-office commonly called the upper district of James river, shall be, and the same is hereby discontinued.

Naval office of upper district of James river abolished.

VI. *And be it further enacted*. That if any vessel and cargo shall be libelled by any person or persons for not entering the same agreeable to law, and upon trial, such libel shall be dismissed with costs, such costs shall not be taxed against nor recovered of the libellant or libellants, nor shall they be liable for any damages in consequence of such seizure; provided the court shall be of opinion that there was probable cause for making the same:

Libellants when not liable to costs.

CHAP. XV.

An act giving powers to the governor and council in certain cases.

BE it enacted by the General Assembly, That it shall and may be lawful for the governor, with the advice of the council of state, to apprehend and secure, or cause to be apprehended and secured, or compelled to depart this commonwealth, all suspicious persons, being the subjects of any foreign power or state, who shall

Governor & council may apprehend & secure suspicious persons subjects of powers, at war with the United States or compel them to depart.

have made a declaration of war, or actually commenced hostilities against the said states, or from whom the United States in congress, shall apprehend hostile designs against the said states; provided information thereof shall have been previously received by the executive from congress: And that in all such cases, the governor, with the advice of the council of state, shall, and he is hereby empowered, to send for the person and papers of any foreigner within this state, in order to obtain such information as he may judge necessary. All sheriffs and jailers shall receive such suspicious persons whom, by warrant from the governor they shall be commanded to receive, and them in their prisons or custody detain, or transport out of the commonwealth, as by such warrant they may be commanded. And all others the good citizens of this commonwealth, shall be aiding and assisting in apprehending, securing or transporting any such suspicious person, when commanded by warrant or proclamation of the governor, or required by the sheriff or jailer to whose custody such suspicious persons may have been committed. Every person acting under the authority aforesaid, shall be indemnified from all suits to be commenced or prosecuted for any action or thing done by virtue thereof, and may plead the general issue, and give this act in evidence: Saving always to the merchants of any foreign state, betwixt whom the United States of America war shall have arisen, and to their families, agents, and servants, found in this commonwealth at the beginning of the war, the privileges allowed by law.

Chapter XVI.

CHAP. XVI.

An act for regulating and fixing the salaries of the officers of civil government.

Salaries of officers of government.

I. WHEREAS the salaries allowed by law to the officers of civil government, have been found to ex-

ceed a proper and adequate compensation for their services.

II. *Be it therefore enacted*, That from and after the first day of November next, the several officers herein after mentioned, shall receive for their salaries, in quarterly payments, after the same shall have been audited according to law: To the governor or chief magistrate, the sum of eight hundred pounds: To the members of the privy council, the sum of two thousand pounds, to be divided amongst them according to their attendance: To each delegate of this commonwealth in congress, the sum of six dollars per day while attending on, travelling to, and returning from congress: To the attorney general, the sum of two hundred pounds per annum: To each auditor of public accounts, the sum of three hundred pounds per annum: To the solicitor general, the sum of three hundred pounds per annum: To the speaker of the senate, the sum of twenty shillings per day, during each session of assembly, including his daily pay: To the speaker of the house of delegates, the sum of forty shillings per day, in like manner: To the clerk of the general court, for his *ex officio* services, the sum of fifty pounds per annum: To the register of the land-office and his clerks, the sum of eight hundred pounds per annum: To the deputy register, two hundred pounds per annum: To the treasurer, the sum of five hundred pounds per annum: To the first clerk of the treasury, the sum of one hundred and fifty pounds per annum; and to each of the other clerks of the treasury, auditors, and solicitor-general, the sum of one hundred pounds per annum: And to the keeper of the public jail, the sum of one hundred pounds per annum.

Governor.

Councillors.

Delegates to congress.

Attorney general.

Auditors.

Solicitor general.

Speaker of senate.

Speaker of house of delegates.

Clerk of general court.

Register of land office.

Deputy register.

Treasurer.

Clerks to treasurer.

Auditors and solicitor.

Keeper of public jail.

Salaries, how paid.

III. *And be it further enacted*, That all those several sums shall be paid in specie or in civil list warrants, and the auditor is hereby authorized to audit the same, and issue his warrants upon the treasury accordingly.

IV. *And be it further enacted*, That so much of any other act or acts, as comes within the purview of this act, shall be, and the same is hereby repealed.

CHAP. XVII.

An act to approve, confirm, and ratify the compact made by certain commissioners appointed by the general assembly of the state of Maryland and commissioners appointed by this commonwealth.

Compact between Maryland and Virginia, as to navigation, and the exercise of jurisdiction on the waters of Chesapeake bay and Pocomoke river

I. WHEREAS, at a meeting of the commissioners appointed by the general assembly of the state of Maryland and Virginia, to wit: Daniel of St. Thomas Jenifer, Thomas Stone, and Samuel Chase, esquires, on the part of the state of Maryland, and George Mason and Alexander Henderson, esquires, on the part of the state of Virginia, at Mount-Vernon, in Virginia, on the 28th day of March, in the year one thousand seven hundred and eighty-five, the following compact was mutually agreed to by the said commissioners:

First. The commonwealth of Virginia disclaims all right to impose any toll, duty, or charge, prohibition or restraint, on any vessel whatever sailing through the capes of Chesapeake bay to the state of Maryland, or from the said state through the said capes outward bound; and agrees that the waters of Chesapeake bay, and the river Pocomoke, within the limits of Virginia, be forever considered as a common high-way, free for the use and navigation of any vessel belonging to the said state of Maryland, or any of its citizens, or carrying on any commerce to or from the said state, or with any of its citizens; and that every such vessel inward or outward bound, may freely enter any of the rivers within the commonwealth of Virginia as a harbour, or for safety against an enemy, without the payment of port duties, or any other charge; and also, that the before mentioned parts of Chesapeake bay, and Pocomoke river, be free for the navigation of vessels from one part of the state of Maryland to another.

Second. The state of Maryland agrees that any vessel belonging to the commonwealth of Virginia, or any of its citizens, or carrying on commerce to or from the said commonwealth, or with any of its citizens, may

freely enter any of the rivers of the said state of Maryland as a harbour, or for safety against an enemy, without the payment of any port duty, or other charge.

Third. Vessels of war, the property of either state, shall not be subject to the payment of any port duty or other charge

Fourth. Vessels not exceeding forty feet keel, nor fifty tons burthen, the property of any citizen of Virginia or Maryland, or of citizens of both states, trading from one state to the other only, and having on board only the produce of the said states, may enter and trade in any part of either state, with a permit from the naval-officer of the district from which such vessel departs with her cargo, and shall be subject to no port charges.

Fifth. All merchant vessels (except such as are described in the fourth article) navigating the river Potowmack, shall enter and clear at some naval office on the said river, in one or both states, according to the laws of the state in which the entry shall be made. And where any vessel shall make an entry in both states, such vessel shall be subject to tonnage in each state only in proportion to the commodities carried to, or taken from, such state.

Sixth. The river Potowmack shall be considered as a common highway, for the purpose of navigation and commerce to the citizens of Virginia, and Maryland, and of the United States, and to all other persons in amity with the said states, trading to or from Virginia or Maryland.

Seventh. The citizens of each state respectively shall have full property in the shores of Potowmack river adjoining their lands, with all emoluments and advantages thereunto belonging, and the privilege of making and carrying out wharves and other improvements, so as not to obstruct or injure the navigation of the river; but the right of fishing in the river shall be common to, and equally enjoyed by the citizens of both states. *Provided,* That such common right be not exercised by the citizens of the one state, to the hindrance or disturbance of the fisheries on the shores of the other state; and that the citizens of neither state shall have a right to fish with nets or seines on the shores of the other.

Eighth. All laws and regulations which may be necessary for the preservation of fish, or for the perform-

ance of quarantine, in the river Potowmack, or for preserving and keeping open the channel and navigation thereof, or of the river Pocomoke, within the limits of Virginia, by preventing the throwing out ballast, or giving any other obstruction thereto, shall be made with the mutual consent and approbation of both states.

Ninth. Light houses, beacons, buoys, or other necessary signals, shall be erected, fixed, and maintained upon Chesapeake bay, between the sea and the mouths of the rivers Potowmack and Pocomoke, and upon the river Potowmack, at the expence of both states. If upon Potowmack river, at the joint and equal charge of both states; and if upon the before mentioned part of Chesapeake bay, Virginia shall defray five parts, and Maryland three parts of such expence; and if this proportion shall in future times be found unequal, the same shall be corrected. And for ascertaining the proper places, mode, and plans for erecting and fixing light houses, buoys, beacons and other signals, as aforesaid, both states shall upon the application of either to the other, appoint an equal number of commissioners, not less than three nor more than five from each state, to meet at such times and places as the said commissioners or a major part of them, shall judge fit, to fix upon the proper places, mode, and plans for erecting and fixing such light houses, beacons, or other signals, and report the same, with an estimate of the expence, to the legislatures of both states, for their approbation.

Tenth. All piracies, crimes, or offences committed on that part of Chesapeake bay which lies within the limits of Virginia, or that part of the said bay where the line of division from the south point of Potowmack river (now called Smith's Point) to Watkins's Point, near the mouth of Pocomoke river, may be doubtful; and on that part of Pocomoke river, within the limits of Virginia, or where the line of division between the two states upon the said river, is doubtful, by any persons not citizens of the commonwealth of Virginia, against the citizens of Maryland, shall be tried in the court of the state of Maryland which hath legal cognizance of such offence. And all piracies, crimes, and offences committed on the before mentioned parts of Chesapeake bay and Pocomoke river, by any persons not citizens of Maryland, against any citizen of Vir-

ginia, shall be tried in the court of the commonwealth of Virginia which hath legal cognizance of such offence. All piracies, crimes, and offences committed on the said parts of Chesapeake bay and Pocomoke river, by persons not citizens of either state, against persons not citizens of either state, shall be tried in the court of the commonwealth of Virginia having legal cognizance of such offences: And all piracies, crimes, and offences committed on the said parts of Chesapeake bay and Pocomoke river, by any citizen of the commonwealth of Virginia, or of the state of Maryland, either against the other, shall be tried in the court of that state of which the offender is a citizen. The jurisdiction of each state over the river Potowmack, shall be exercised in the same manner as is prescribed for the before mentioned parts of Chesapeake bay and Pocomoke river, in every respect, except in the case of piracies, crimes, and offences committed by persons not citizens of either state, upon persons not citizens of either state, in which case the offenders shall be tried by the court of the state to which they shall first be brought. And if the inhabitants of either state shall commit any violence, injury, or trespass, to or upon the property or lands of the other, adjacent to the said bay or rivers, or to any person upon such lands, upon proof of due notice to the offender to appear and answer, any court of record, or civil magistrate of the state where the offence shall have been committed, having jurisdiction thereof, may enter the appearance of such person, and proceed to trial and judgment, in the same manner, as if legal process had been served on such offender; and such judgment shall be valid and effectual against the person and property of such offender, both in the state where the offence shall have been committed, and also in the state where the said offender may reside, and execution may be issued by the court, or magistrate, giving such judgment, in the same manner as upon judgments given in other cases; or upon a transcript of such judgment, properly authenticated, being produced to any court; or magistrate, of the state where such offender may reside, having jurisdiction within the state, or county where the offender may reside, in cases of a similar nature, such court, or magistrate, shall order execution to issue upon such authenticated judgment in the same manner, and to the same extent, as if the

judgment had been given by the court, or magistrate, to which such transcript shall be exhibited.

Eleventh. Any vessel entering into any port on the river Potowmack, may be libelled, or attached for debt, by process from the state in which such vessel entered. And if the commercial regulations of either state shall be violated by any person carrying on commerce in Potowmack or Pocomoke rivers, the vessel owned or commanded by the person so offending, and the property on board, may be seized, by process from the state whose laws are offended, in order for trial. And if any person shall fly from justice, in a civil or criminal case, or shall attempt to defraud creditors by removing his property, such person, or any property so removed, may be taken on any part of Chesapeake bay, or the rivers aforesaid, by process of the state from which such person shall fly, or property be removed; and process from the state of Virginia may be served on any part of the said rivers, upon any person, or property of any person not a citizen of Maryland, indebted to any citizen of Virginia, or charged with injury having been by him committed; and process from the state of Maryland may be served on any part of the said rivers, upon any person, or property of any person, not a citizen of Virginia, indebted to a citizen of Maryland, or charged with injury by him committed. And in all cases of trial in pursuance of the jurisdiction settled by this compact, citizens of either state shall attend as witnesses in the other, upon a summons from any court, or magistrate, having jurisdiction, being served by a proper officer of the county where such citizen shall reside.

Twelfth. The citizens of either state having lands in the other, shall have full liberty to transport to their own state, the produce of such lands, or to remove their effects, free from any duty, tax, or charge whatsoever, for the liberty to remove such produce or effects.

Thirteenth. These articles shall be laid before the legislatures of Virginia and Maryland, and their approbation being obtained, shall be confirmed and ratified by a law of each state, never to be repealed, or altered, by either, without the consent of the other.

II. And whereas this general assembly are of opinion that the said compact is made on just and mutual

principles for the true interest of both governments, and the same having been confirmed by the general assembly of the state of Maryland: *Be it therefore enacted*, That the said compact is hereby approved, confirmed, and ratified by the general assembly of Virginia, and that every article, clause, matter and thing therein contained, shall be obligatory on this state and the citizens thereof, and shall be forever faithfully and inviolably observed and kept by this government and all its citizens, according to the true intent and meaning of the said compact; and the faith and honour of this state is hereby solemnly pledged and engaged to the general assembly of the state of Maryland, and the government and citizens thereof, that this law shall never be repealed, or altered, by the legislature of this commonwealth, without the consent of the state of Maryland.

CHAP. XVIII.

An act to amend the act, intituled An act to amend and reduce the several acts for appropriating the public revenue, into one act.

I. WHEREAS the United States in congress assembled, have by their act of the twenty-seventh of September last, made a requisition of three millions of dollars, to be paid by the several states in the union, on or before the first day of May next, and have stated the proportion to be paid by this state, at five hundred and twelve thousand nine hundred and seventy-four dollars; and whereas, this assembly is ever desirous to make provision for the punctual and honorable discharge of their proportion of the debts and expences of the federal government:

Appropriation of public revenue.

II. *Be it therefore enacted*, That instead of four hundred thousand dollars, formerly appropriated for continental purposes, there shall be paid by the treasurer of this commonwealth, on or before the first day of

May next, to such person or persons as may be by the United States in congress assembled, duly authorized to receive the same, the aforesaid sum of five hundred and twelve thousand nine hundred and seventy-four dollars; one-third of which payment shall be made in Spanish milled dollars, or other silver or gold coin equivalent thereto, and the other two-thirds shall be paid in certificates granted for the interest due upon loan-office certificates, and upon other certificates of the liquidated debts of the United States, as described in the before-recited act of congress of the twenty-seventh of September last: *Provided always*, That if the amount of the aforesaid interest certificates in the hands of the treasurer, shall on the first day of January, one thousand seven hundred and eighty-seven, fall short of two-thirds of the above sum of five hundred and twelve thousand nine hundred and seventy-four dollars, the deficiency shall be paid by the treasurer in Spanish milled dollars, or other silver or gold coin equivalent thereto. And for assuring full and complete payment of the aforesaid sum of five hundred and twelve thousand nine hundred and seventy-four dollars,

Taxes appropriated.

III. *Be it enacted*, That all the arrearages of the land and slave tax heretofore appropriated to the payment of this state's quota of the debts of the United States, shall be applied in discharge thereof, and also so much of the revenue arising from half the slave tax, and from the land tax, for the years one thousand seven hundred & eighty-five, and one thousand seven hundred and eighty-six, which have been heretofore appropriated to the payment of this state's quota of the debts of the United States, shall be applied thereto, until the said amount is fully paid; and should the said funds not prove sufficient to make good the aforesaid payment, in the year one thousand seven hundred and eighty-six, the deficiency shall be made good from any money arising from the general fund not heretofore appropriated; and if the said funds shall, within the course of the year one thousand seven hundred and eighty-six, yield more money than will pay the aforesaid sum to congress, such excess shall be applied in aid of the general fund.

IV. *And be it further enacted*, That the treasurer of this commonwealth shall transmit to the board of trea-

sury of the United States, once in every month, a state of all sums paid by him on account of the United States, to their commissioner of the loan-office, or to such other person or persons as may be duly authorized to receive the same, expressing the dates and amounts of the respective payments, and distinguishing the sums paid in actual money, from those payments made in interest certificates. And whereas congress have directed every commissioner of the continental loan-office, previously to settling and issuing certificates as aforesaid, for the interest due on certificates of liquidated debts other than loan-office certificates, to administer an oath or affirmation, or require a certificate signed by one of the persons whom the state in which the commissioner resides, shall, in the legislative act complying with the requisition aforesaid of the twenty-seventh of September, one thousand seven hundred and eighty-five, appoint, that he has administered to the owner or possessor of every such certificate, an oath or affirmation, that the same is bona fide the property of the particular state in which the said commissioner resides, or of a citizen or citizens of the said state, or of some corporate body or charitable institution within the same, or of some person who is not a citizen of any of the United States, describing the certificate or certificates alluded to in every such oath or affirmation, in such manner as shall be necessary to identify the same; and it becomes therefore necessary to authorize certain persons to administer such oath or affirmation in this state:

V. Be it therefore enacted, That every justice of the peace within this commonwealth shall be, and is hereby authorized and empowered, to administer such oath or affirmation, and to give a certificate thereof, according to a form which the commissioner of the continental loan office in this state shall prescribe, and publish six weeks successively in the public newspapers of this state. And whereas, by an act passed during the present session, all persons chargeable with certain taxes, being part of the revenue for one thousand seven hundred and eighty-five, not yet collected, are permitted to pay a certain proportion thereof in continental interest certificates, as described aforesaid, and it will contribute to the relief of the people of this commonwealth, to extend the same to the collection of the re-

venue of one thousand seven hundred and eighty-six, in such proportion, that a sufficient amount of such interest certificates may be collected, as will pay two-thirds of this state's quota to the United States:

VI. *Be it therefore enacted*, That every person chargeable with the revenue tax for one thousand seven hundred and eighty-six, under the act "To amend and reduce the several acts of assembly for ascertaining certain taxes and duties, and for establishing a permanent revenue, into one act," may pay one-third part of such taxes in certificates granted by any commissioner of continental loans in any of the United States, for the interest due upon loan-office certificates, or upon other certificates of the liquidated debts of the United States; and such sheriff or collector, upon payment thereof into the public treasury, shall be allowed a discount for all such interest certificates so by him collected: *Provided always*, That the amount thereof shall not exceed one-third part of the taxes by him collected.

VII. *And be it further enacted*, That two thousand pounds of the money arising annually from the tonnage of vessels, and from the duties upon goods, wares, and merchandizes, imported into this commonwealth, shall be appropriated to defraying the expenses of the boats Liberty and Patriot, under the direction of the executive.

VIII. *Be it enacted*, That the treasurer be authorized and directed to make good the subscription to the Potowmack and James river companies, in behalf of the state, as the several dividends may from time to time be applied for by the president and directors of the said companies, out of the surplus of any public monies arising under the several laws for the inspection of tobacco. The sum of eighty thousand pounds shall be paid in the years one thousand seven hundred and eighty-six, and one thousand seven hundred and eighty-seven, in discharge of debts due to persons who are not citizens of this state; all the nett revenue arising from the duty of two and an half per centum, on merchandize imported, and from the tax on law process and alienations, shall be applied to this purpose. In aid of the said funds shall also be applied, after making good former appropriations, all the money arising from the sale of the Gosport lands which have already been sold, or which may be hereafter sold, if the governor shall, with the advice of council, think proper to

direct a further sale of the same; the apportionment of the said sum shall be made amongst the said creditors of the public, in such manner and in such proportions, as the governor, with the advice of council, shall direct, except where any of the said creditors shall be entitled to a preference in consequence of any act or resolution of the general assembly, directing the same to be paid out of the funds aforesaid, and such preference to be given. Warrants for the said payments shall be drawn by the auditors of public accounts, in favour of such persons as the governor, with the advice aforesaid, shall specially direct; and the said warrants shall express that the same are to be received in payment for the Gosport lands, and shall be countersigned by the governor or chief magistrate of this commonwealth. And whereas no provision hath yet been made for the payment of the tobacco borrowed for the use of this commonwealth, under the resolution of the May session, one thousand seven hundred and eighty:

IX. *Be it therefore enacted,* That the governor shall take such measures as shall to him, with advice of council, seem just and equitable, for ascertaining the value of such tobacco in money; for the payment whereof, and interest thereon at the rate of six per cent. from the delivery of such tobacco, warrants shall be granted by the auditors of public accounts, by special direction of the governor, with advice aforesaid, to the persons entitled thereto; the fund for payment whereof shall be the money arising on or before the first day of October next, from three shillings per hogshead imposed on tobacco exported, agreeably to an act "To appoint commissioners to state and settle the losses sustained by the burning of the warehouses at Rocky Ridge," first complying with the purposes of the said act: And provided the money arising under the said act shall not be sufficient fully to comply with the purposes aforesaid, on or before the first day of October next, the deficiency shall be made good out of the general fund; and if there shall be any excess or overplus by the said first day of October, the same shall be applied in aid of the general fund. The said warrants shall also express that the same shall be received by any sheriff or collector of public taxes, in payment of any specie tax, and the same shall be so received; and such sheriff or collector, on payment thereof into the public treasury, shall have the same allowed accordingly.

X. *And be it further enacted*, That a sufficient sum to pay the balances due for building houses for the reception of hemp, agreeably to an act, intituled, "An act for the inspection of hemp," shall also be drawn from the surplus which may arise under the laws for the inspection of tobacco, the claims being first audited according to law, if so much remain after making good former appropriations.

XI. *And be it further enacted*, That a sum not exceeding six hundred pounds, out of the contingent fund, be set apart for the purposes of the public hospital in the city of Williamsburg, upon warrants from the auditors, under order of the executive, on application of the board of directors.

CHAP. XIX.

An act for improving the navigation of the south branch of Potowmack river.

Owners of mills on south branch of Potowmack to make slopes, for passage of fish, and to cut canals for passage of boats.

Penalty for neglect.

BE it enacted by the General Assembly, That the owner or proprietors of any and every mill on the south branch of Potowmack river, from the mouth thereof upwards, to the north fork, shall, and they are hereby directed and required, respectively, on or before the first day of January, one thousand seven hundred and eighty-seven, to make and fix in each mill-dam, a proper slope for the passage of fish up the same, and moreover to cut or cause to be cut, a canal or race, by means of which boats navigated in the said river, may conveniently and safely pass up or down the same, without being impeded by such mill-dams. If such slope and canal be not made at each mill-dam, on or before the day aforesaid, for every twenty-four hours thereafter that the party neglects or fails therein, he shall forfeit and pay the sum of five pounds to any person who will sue for the same; to be recovered, with costs, by action of debt, or information, in any court of record within this commonwealth, and applied, one half towards clearing the said river, and the other half

to the use of the person suing therefor. All hedges and other stops to the navigation of the said river, within the limits aforesaid, made or placed therein (mill-dams excepted) shall be removed and destroyed by the person or persons who made or placed the same; and that in future, no hedge or stop in any wise obstructing the course or passage of the said river, shall be placed or set therein. And if any person shall presume to make and place, or cause to be made and placed, any artificial obstruction in the said river, within the limits aforesaid, in any manner tending to impede the navigation thereof, it shall be lawful for any person to pull up and destroy the same, and the party shall moreover forfeit and pay the sum of five pounds for every twenty-four hours such artificial obstruction shall remain therein; to be recovered, with costs, by action of debt, or information, in any court of record, one moiety to the use of the person who will sue for the same, and the other moiety to be applied towards clearing and improving the navigation of the said river.

Hedges and stops to be removed, under a penalty

CHAP. XX.

An act establishing inspections of tobacco at Crow's ferry, in the county of Botetourt, and on the lands of Thomas Cresap, in the county of Hampshire, and for other purposes.

I. WHEREAS it hath been represented to this present general assembly, that it would be of great utility and a public convenience, to establish warehouses for the reception and inspection of tobacco at Crow's ferry, on James river, and at the confluence of the North and South branches of Potowmack, in the forks of the said river, on the lands of Thomas Cresap, in the county of Hampshire, the proprietors whereof are willing to build the same at their own expence:

II. *Be it therefore enacted;* That an inspection of tobacco shall be, and the same is hereby established; on

Inspections of tobacco established at

Crow's ferry, in Botetourt, and on lands of Thomas Cresap, in Hampshire.

the lands of William Crow, in the county of Botetourt, to be called and known by the name of Crow's warehouse; and on the land of Thomas Cresap, at the confluence of the North and South branches of Potowmack, in the county of Hampshire, to be called and known by the name of Cresap's warehouse: That the inspectors at the said warehouses, upon the delivery of their notes, or an order where notes have not been issued, shall deliver the tobacco for transportation, with a printed manifest descriptive of the owner's name, the name of the skipper of the batteau or canoes if transported by water, or if waggoned, the name of the waggoner, to what warehouse or port the same is destined, and to whom to be delivered; the said manifest shall moreover express the marks, numbers, and weights of the tobacco, and each hogshead shall be stamped with the name of the warehouse at which it was inspected; which manifest shall by the skipper or waggoner (as the case may be) if the tobacco is intended to be sent to any warehouse heretofore established, be delivered to the inspectors thereof, who are hereby required to receive the same and grant a receipt therefor, and enter such tobacco in a separate book to be by them provided and kept for that purpose, and on the receipt aforesaid being presented, shall deliver the said tobacco, with the manifests, for exportation, when required, and may demand for all such tobacco the same warehouse rent as for other tobacco by them inspected, and the sum of one shilling for each hogshead, to the use of the inspectors for their trouble in receiving and delivering the same. *Provided always,* That nothing in this act contained shall be construed to prevent any owner of tobacco passed at the said inspections, who has previously paid the legal duties, from exporting, selling, or storing the same in any private warehouse, without being obliged to store the same in any warehouse heretofore established. And to prevent fraud where the owner of the tobacco inspected at either of the said warehouses may incline to export the same by land to any of the United States,

III. *Be it enacted,* That the owner thereof, previous to the delivery of the tobacco, shall procure a duplicate of the manifest, with a certificate from the inspectors that the duties imposed by law on such tobacco have been paid; which certificate, with all others grant-

ed in similar cases; shall be lodged with the clerk of the court of that county where the tobacco was inspected, to be by him transmitted to the auditors of public accounts, on or before the twenty-fifth day of October annually, to be by them compared with the inspectors accounts. And in case the owner of the tobacco shall suspect any fraud to have been practised or used by any skipper or waggoner in the transportation thereof from either of the said warehouses, it shall be lawful for the inspectors at any warehouse to which the same may be brought, and they are hereby required, at the request of such owner, to re-inspect and weigh the same, and if found to be damaged or embezzled, the inspectors shall not enter the same in their books, but it shall remain subject to the directions of the owner, in like manner as other damaged tobacco.

IV. *And be it further enacted*, That the appointment of inspectors, and all other regulations appertaining to the said warehouses, shall be the same as is provided for by law for other inspections, so far as the same do not contravene this act. All tobacco inspected at either of the said warehouses, shall be subject to the same duties and imposts, and be collected and accounted for by the inspectors in the same manner and under the like penalties, as are directed and prescribed for other warehouses heretofore established. And the inspectors at each of the said warehouses, may demand and receive for each hogshead by them inspected, the sum of four shillings, one shilling whereof to be by them accounted for and paid to the proprietor for the rent of the warehouse, and the residue for their own use. *Provided nevertheless*, That no person shall be obliged to receive any notes, passed at any of the said warehouses, in discharge of any tobacco contracts heretofore entered into. And whereas great advantages may be derived to the commonwealth, by encouraging the manufacture of tobacco:

V. *Be it therefore enacted*, That the inspectors at the several warehouses within this commonwealth, shall deliver any inspected tobacco to any person or persons who shall duly demand such tobacco for the purpose of manufacturing the same, and grant him or them a manifest therefor, upon such persons paying the usual duties, and lodging with them a certificate of his or their having before some court of record within this com-

Manufacture
of tobacco,
rules con-
cerning.

monwealth entered into bond, with sufficient security, in the penalty of one thousand pounds, payable to the governor and his successors, for the use of the commonwealth, with condition that he or they will not export, or cause or suffer to be exported, either by land or water, any tobacco received by him or them for the purpose of manufacturing, until it has been so manufactured: *Nevertheless*, it shall be lawful to export any such manufactured tobacco, affidavit being made before a magistrate that the said tobacco had been inspected and passed at some inspection before the same was manufactured, although the same be not packed in hogsheads, any law to the contrary, notwithstanding.

CHAP. XXI.

An act for establishing an inspection of tobacco at Kinsale, and discontinuing that at Rust's warehouse, and for other purposes.

Inspection of tobacco at Kinsale established; and Rust's warehouse discontinued.

I. *BE it enacted by the General Assembly*, That the inspection of tobacco at Rust's warehouse, in the county of Westmoreland, shall from and after the tenth day of February next, be discontinued, and thenceforth an inspection of tobacco shall be, and the same is hereby established on the lands of Catesby Jones, in the town of Kinsale, to be called and known by the name of Kinsale; provided the said Jones shall build convenient houses at his own expence. The transfer notes issued by the inspectors thereof, shall be payable for public dues in like manner as those of Rust's warehouse, and shall be under the same inspection with Yeocomico.

Robert Bolling's warehouse removed.

II. *And be it further enacted*, That from and after the first day of October next, the inspection of tobacco at Robert Bolling's warehouse, shall be removed to, and established on the lands of the proprietors thereof adjoining to Bolling's and Tabb's mill, and that conve-

bient and proper houses shall be built thereon at the expence of the proprietors. The inspection of tobacco at Shepherd's warehouse, in the county of King and Queen, shall be, and the same is hereby revived and established, for and during the term of two years.

Inspection at
Suffolk re-
vived.

III. *And be it further enacted*, That the inspection of tobacco in the town of Suffolk is hereby revived and established, the proprietors of the land being willing to rebuild convenient houses thereon.

Rules as to
inspectors sa-
laries, at Suf-
folk & other
warehouses.

IV. *Provided always, and be it further enacted*, That if at the expiration of two years from the passing of this act, the quantity of tobacco taken at Suffolk warehouse shall not be sufficient to pay the rents and inspectors salaries, that thenceforth the said inspection shall be discontinued. There shall be allowed and paid annually, to each of the inspectors at Shepherd's, the sum of twenty-five pounds; to each of the inspectors at Suffolk, the sum of twenty-five pounds; to each of the inspectors at Petersburg warehouse, the sum of eighty pounds; and to each of the inspectors at John Bolling's, the sum of seventy pounds; and no more. And whereas, by an act of assembly passed in May, one thousand seven hundred and eighty-three, intituled "An act to amend and reduce the several acts of assembly for the inspection of tobacco, into one act;" it is among other things declared and enacted, "That in case any of the said warehouses therein named, shall not after the first day of October next, and before the first day of October, one thousand seven hundred and eighty-five, receive a sufficient quantity of tobacco to pay the inspectors salaries and rents of the warehouses, the inspection of tobacco at such warehouses respectively shall be thenceforth discontinued, unless the same shall be supported at private expence: *Provided*, That this clause shall not extend to the discontinuance at one time, of two or more warehouses which may be in the same county, or county next adjacent; but in such cases that warehouse shall be discontinued to which the smallest quantity of tobacco may be brought in the years aforesaid:" And it is judged expedient that the operation of the said clause should be suspended:

Act as to dis-
continuance
of warehou-
ses suspended

V. *Be it therefore enacted*, That the operation of the said clause shall be, and the same is hereby suspended,

from and after the said first day of October last, until the first day of October, one thousand seven hundred and eighty-seven.

CHAP. XXII.

An act for establishing certain inspections of tobacco.

Inspections of tobacco at Lynch's ferry, in Campbell, and at Point of Fork in Fluvanna established.

I. WHEREAS it has been represented to this present general assembly, that it would be of great public utility to establish warehouses for the reception and inspection of tobacco at John Lynch's ferry, on the land of the said Lynch on James river, in the county of Campbell, and at the Point of Fork, in the county of Fluvanna, on the lands of David Ross; and that the proprietors of the said lands are willing to build convenient houses at their own expence:

Rules for transporting the tobacco to other warehouses, on tide water.

II. *Be it therefore enacted*, That inspections of tobacco shall be, and the same are hereby established, on the land of the said John Lynch, at his ferry in the said county of Campbell, to be called and known by the name of Lynch's; and at the point of Fork, in the county of Fluvanna, on the lands of David Ross, to be called and known by the name of Rivanna warehouse. There shall be allowed and paid annually, to each of the inspectors at the said warehouses, the sum of thirty pounds for their salary. The inspectors at the said warehouses, upon the delivery of their notes, or an order where they have not issued notes, shall deliver the tobacco for transportation, with a manifest of the same, expressing the owner's name, the name of the skipper of the batteau or canoe, with the marks, number, and weight of the tobacco, and stamped with the warehouse's name; which tobacco, with the manifest, shall be delivered to the inspectors at Byrd's, Shockoe's, Manchester, Rocky Ridge, or Rockett's, who are hereby required to receive the same, and enter the said tobacco agreeable to the said manifest, in books to be

by them provided and kept for that purpose, and grant their receipts for the same to the owners thereof, and be delivered for exportation, when required. The inspectors at the last mentioned warehouses are hereby empowered to examine and weigh any tobacco to them delivered, when required by the owner thereof, and if found to be damaged or embezzled, the same shall not be entered in the books, but remain in the warehouse, subject to the direction of the owner, in like manner as other damaged tobacco.

III. *Be it further enacted*, That the inspectors at each of the said warehouses of Byrd's, Shockoe's, Manchester, Rocky Ridge, or Rocketts, shall demand and receive for all tobacco brought to the said warehouses, by virtue of this act, the same warehouse rent as is allowed for tobacco reloaded from on board any vessel, and be appropriated in the manner directed by law for the appropriation of the tax or rent on such reloaded tobacco. The impost and duty on tobacco inspected at the said warehouses, shall be the same, and collected, accounted for, and paid in like manner as is directed and prescribed by law for other tobacco inspections, except where it shall be otherwise particularly directed by this act.

Warehouse
rent on tobacco
brought
from an upper
inspection.

IV. *And be it further enacted*, That the county courts of Campbell and Fluvanna, be empowered, and they are hereby required, to recommend fit persons for each of the said inspections in the months of March or April next, to inspect all tobacco that shall be brought to the said warehouses. *Provided nevertheless*, That no person shall be obliged to receive any notes for tobacco passed at either of the said warehouses, in discharge of any tobacco contract heretofore entered into.

CHAP, XXIII.

*An act to amend the act For opening
and extending the navigation of
Potowmack river.*

Preamble.

1. WHEREAS the president and directors of the Potowmack company, by their petition to this general assembly on behalf of the said company, have set forth, that in pursuance of the acts of assembly of this state, and of Maryland, intituled "An act for opening and extending the navigation of Potowmack river," they purpose to make a canal on one level to be supplied by the current of the river from a little above the Great falls of Potowmack, to a convenient place below those falls, where they design to effect a communication with the bed of the river by connected locks, and that they are under the strongest impressions, if any canal and locks should be found necessary or useful at the Little falls of the said river, that another such cut on one level and a waste of the whole fall by a set of locks at tide water, will be preferable there on every account; and that, as the depth of the water in such canals will be increased on the rise of the water in the river, so as to permit an easy passage for all such boats and rafts as can pass in the river, even less than two feet depth of water in the said canals in dry seasons, with the certain necessary increase on the rise of the river, will be fully sufficient, instead of the four feet required by the said acts, to answer all useful purposes; and that, cutting the said canals four feet below the level of the water in dry seasons, will very greatly and uselessly enhance the expence of the canals, occasion considerable delay in the work, and render it in a degree less secure—they have therefore prayed that acts of the assemblies of both states, may pass, making it necessary that such canals contain two feet only, instead of the four feet required by the said acts, and if the levels should be broken by locks placed apart from each other, that the first level may necessarily contain only two feet depth, and the other, or rest, four; all which suggestions appearing to this general assembly to be true, and the prayer of the said petition to be reasonable;

II. *Be it enacted by the General Assembly, That any canal which shall be cut or made on one level by the Potowmack company, at the Great or Little falls of Potowmack river, supplied by the current of that river, containing two feet of water at the least in dry seasons, and communicating again with the river by locks, if necessary, the spaces between the locks, if they should be placed distant from each other, containing four feet depth of water, shall be equally available to every intent and purpose as if the whole of such canal had been made to contain four feet depth of water, agreeable to the directions of the said acts; any thing in the said acts to the contrary, notwithstanding.*

Potowmack company authorised to cut a canal containing two feet water, instead of four, at certain places.

III. This act to take place as such, on a similar law being passed by the legislature of Maryland, and not otherwise.

CHAP. XXIV.

An act for adding part of the county of Nansemond to that of Southampton.

BE it enacted by the General Assembly, That from and after the first day of March next, all that part of Nansemond county, lying south of the rivers Blackwater and Nottoway, shall be added to and made part of the county of Southampton. The court of the said county of Nansemond shall have jurisdiction of all actions and suits, in law or equity, depending before them on the said first day of March. Provided always, That nothing herein contained shall be construed to hinder the sheriff or collector of the said county of Nansemond, from collecting and making distress for any levies, taxes, or officers fees, which may be due and unpaid by the inhabitants of that part of the said county hereby added to the county of Southampton; but such sheriff or collector may collect and distrain for the same and shall be answerable in like manner, as if this act had not been made.

Part of the county of Nansemond added to Southampton

CHAP. XXV.

An act for forming a new county out of the counties of Bedford and Henry.

Franklin
county form-
ed from Bed-
ford & Henry.

Boundaries.

Court days.

I. *BE it enacted by the General Assembly*, That all that part of the county of Bedford lying south of Staunton river, together with so much of the county of Henry lying north of a line to be run from the head of Shooting creek, to the west end of Turkey-cock mountain; thence along the top of the mountain to intersect the dividing line between the counties of Henry and Pittsylvania; thence along that line to the mouth of Black-water river; shall from and after the first day of January next, form a distinct county, and be called and known by the name of Franklin: That a court for the said county of Franklin shall be held by the justices thereof on the first Monday in every month, after such county shall take place, in like manner as is provided by law for other counties, and shall be by their commissions directed. That the justices to be named in the commission of the peace for the said county of Franklin, shall meet at the house of James Callaway, at his iron works in the said county, upon the first court-day after the said county shall take place; and having taken the oaths prescribed by law, and administered the oath of office to, and taken bond of the sheriff, according to law, proceed to appoint and qualify a clerk, and fix upon a place for holding courts in the said county at or as near the centre thereof as the situation and convenience will admit of; and thenceforth the said court shall proceed to erect the necessary public buildings at such place, and until such buildings be completed, to appoint any place for holding courts as they shall think proper. *Provided always*, That the appointment of a place for holding courts, and of a clerk, shall not be made unless a majority of the justices of the said county be present; where such majority shall have been prevented from attending by bad weather, or their being at the time out of the county, in such case the appointment shall be postponed until some court-day when a majority shall be present. The

governor, with advice of the council, shall appoint a person to be first sheriff of the said county, who shall continue in office during the term, and upon the same conditions, as is by law appointed for other sheriffs.

II. *Provided also, and be it further enacted,* That it shall and may be lawful for the sheriffs of each of the said counties of Bedford and Henry, to collect and make distress for any public dues or officers fees, which shall remain unpaid by the inhabitants thereof at the time the said county shall take place, and shall be accountable for the same in like manner as if this act had never been made. And that the courts of the said counties of Bedford and Henry, shall have jurisdiction of all actions and suits, in law or equity, which shall be depending before them at the time the said county shall take place, and shall try and determine the same, and issue process, and award execution thereon. In all future elections of senators, the said county of Franklin shall be of the same district as the counties of Bedford and Henry.

CHAP. XXVI.

An act for ascertaining a part of the boundary line between the counties of Goochland and Fluvanna.

I. WHEREAS part of the line between the counties of Goochland and Fluvanna, cannot be clearly ascertained in consequence of the destruction of the marked trees;

Boundaryline between counties of Goochland & Fluvanna ascertained.

II. *Be it therefore enacted,* That a straight line shall be run from the bank of James river, beginning at a rock called Golgotha, a small distance below Ross's ferry landing, to a marked tree in the line between the said counties standing near the road, leading from Goochland court-house to Fluvanna court-house. The said line to be run in the presence of a magistrate from each county, and at the expence of the county of Fluvanna.

CHAP. XXVII.

An act appropriating certain arrears of public taxes to the opening a waggon road from the eastern to the western waters.

Provision for opening a waggon road, from the town of Lewisburg to the lower falls of the Great Kenawha, by appropriating taxes of Greenbrier, or accepting personal labour from the inhabitants.

I. WHEREAS the commissioners appointed pursuant to a resolution of the general assembly at the last session, to examine the most convenient course for a road from the highest navigable part of James river, to the nearest navigable part of the waters running into the Ohio, have reported the practicability of the same; and it appears to this assembly that the opening the said road will greatly co-operate with and facilitate the scheme for opening and extending the navigation of the said river, and that the expence thereof may be defrayed by a mode convenient to the public; and productive of ease and relief to the inhabitants of the county of Greenbrier (through which the said road must pass) who from their exposed situation to the incursions of the savages, their recent settlement in that county, and distance from navigation, are unable to discharge their taxes, without great distress, but are willing and desirous to discharge the same by labour, or in supplies necessary for the opening the said road, which, when effected, will remove the disability in future of paying the public taxes, and produce great benefit, by opening trade and communication with the western country:

II. *Be it therefore enacted by the General Assembly,* That Samuel Brown, James Henderson, William Poage, Andrew Donnelly, and George Clendinen, gentlemen, or a majority of them, shall be, and they are hereby authorized and required, after having severally taken an oath before the court of the said county of Greenbrier, and entered into bond, with security, in the penal sum of ten thousand pounds, payable to the governor and his successors, for the use of the commonwealth, for the due, faithful, and impartial execution of their office, to appoint a time and place of meeting, giving two months previous notice thereof by advertisement at the courthouse door of each of the counties

of Greenbrier, Augusta, Rockbridge, and Botetourt, and then and there proceed to let to the lowest bidder, the opening a waggon road at least thirty feet wide, from the town of Lewisburg in Greenbrier, to the lower falls of the Great Kanawa, to be finished and completed fit for the use of waggons, within two years, taking bond and good security, in a sufficient penalty, from the undertakers, payable to the said commissioners, for the due execution of the said work, in the terms aforesaid. The said undertakers shall have power to contract with any person or persons, inhabitants of the said county of Greenbrier, for personal labour, or supplies of money, or any thing that may be necessary in aid of the said work, and shall give certificates to the person or persons so contributing, to the amount of whatever they have furnished; which certificates when countersigned by one or more of the said commissioners, the sheriff of the said county of Greenbrier shall receive in payment for the taxes due from the holder thereof; and the sheriff shall be allowed a credit for all such certificates by him received, at the treasury in the settlement of his accounts for the arrears of taxes due from his county.

III. *Provided always, and be it further enacted,* That the said commissioners shall furnish the auditors of public accounts with a transcript of their book of accounts, before any certificates shall be allowed the sheriff in the settlement of his accounts, and no certificate shall be allowed unless the same is countersigned by one or more of the said commissioners, and entered in the transcript sent by the said commissioners to the auditors of public accounts. All proceedings against the sheriff of the said county of Greenbrier, respecting the said arrears of taxes (except as hereafter excepted) shall be suspended until the first day of May, one thousand seven hundred and eighty-eight. Every person in the said county of Greenbrier, failing to contribute so much to the opening of the said road as will be sufficient to discharge his arrears of taxes, on or before the first day of January next, it shall and may be lawful for the sheriff of the said county of Greenbrier to collect and distrain for the same, and pay the amount thereof to the said commissioners within two months thereafter, and on failure so to do, the said commissioners may recover the said amount by motion in the

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court of the said county of Greenbrier; provided the sheriff has ten days previous notice of such motion.—*Provided also*, That the amount of the certificates to be granted pursuant to this act, shall not exceed the sum of five thousand pounds, nor shall the sheriff of said county be allowed, in the settlement of his accounts with the public, for more certificates than the amount of that sum. The clerk of the said county of Greenbrier, shall transmit to the executive, a copy of the bond entered into by the commissioners, together with a certificate of their taking the oath, within six months after the said bond be taken, and said oath administered, under the penalty of one hundred pounds to be recovered by action of debt, or information, with costs, in any court of record, to the use of the party who will sue for the same.

CHAP. XXVIII.

An act for adding part of the county of Rockbridge to the county of Botetourt.

I. WHEREAS the boundary line between the counties of Rockbridge and Botetourt has been lately extended, whereby inconveniencies have arisen to a part of the inhabitants of the said county of Rockbridge: For remedy whereof,

Part of the
county of
Rockbridge
added to Bo-
tetourt.

II. *Be it enacted by the General Assembly*, That all that part of the said county of Rockbridge lying west of the top of the Camp-mountain, shall henceforth be added to and taken as part of the said county of Botetourt. *Provided always*, That it shall be lawful for the sheriff of the said county of Rockbridge, to collect and make distress for any public dues or officers fees, which shall remain unpaid by the inhabitants of that part of the said county hereby added to the said county of Botetourt, and shall be accountable for the same in like manner as if this act had not been made.

CHAP. XXIX.

An act to revive an act, intituled, An act to appoint commissioners to state and settle the losses sustained by the burning the warehouses at Rocky Ridge.

I. WHEREAS the act of assembly passed in the year one thousand seven hundred and eighty-four, intituled "An act to appoint commissioners to state and settle the losses sustained by the burning the warehouses at Rocky Ridge," hath expired, and it is expedient and necessary that the same should be revived:

Act appointing commissioners to settle losses on tobacco, burnt at Rocky Ridge warehouses, revived.

II. *Be it therefore enacted*, That the act, intituled "An act to appoint commissioners to state and settle the losses sustained by the burning the warehouses at Rocky Ridge," shall be revived, and continue and be in force, from and after the passing of this act, until the first day of May next, and no longer.

CHAP. XXX.

An act for keeping certain roads in repair.

I. WHEREAS the public roads leading from the north-western parts of this state, to the towns of Alexandria and Colchester, in the county of Fairfax, by means of the great number of waggons which use the same, are rendered impassible, and the ordinary method of keeping them in repair as at present by law established, is not only insufficient, but exceedingly burdensome to those who are employed therein: For remedy whereof,

Provision for keeping in repair, the roads from the north-western parts of the state to Alexandria and Colchester.

II. *Be it enacted*, That George Gilpin, Charles Little, Francis Peyton, Samuel Love, Israel Thompson,

Turnpike
gates.

Tolls.

Thomas Hart, William Brady, John Smith, and George Noble, gentlemen, be, and they are hereby appointed, commissioners of the aforesaid roads; and the said commissioners, or a major part of them, or such person or persons as they shall appoint, may set up and erect, or cause to be set up and erected, one or more gates or turnpikes across the roads, or any of them, leading into the town of Alexandria, from Snigger's and Vestal's gaps, within five miles of said town, and the tolls and duties following shall be paid and received, before any of the things on which the same are herein after imposed shall be permitted to pass through the said gates or turnpikes, or either of them, that is to say: For every coach or other four wheeled riding carriage and the driver thereof, one shilling and three pence; for every two wheeled chaise or chair and the driver thereof, eight-pence; for every loaded waggon and the driver thereof, one shilling; for every loaded cart and the driver thereof, six-pence; for every waggon not loaded and the driver thereof, one shilling; for every empty cart and the driver thereof, six-pence. No person shall be liable or compelled to pay any of the before mentioned tolls or duties on any article on which they are imposed, in returning from the aforesaid town of Alexandria, who paid the toll or duty thereon in coming to the said town. Every carriage shall be exempt from the payment of the tolls and duties hereby imposed, for the term of one year, which shall be entered with the person appointed to collect the tolls hereby imposed, and obtaining a licence therefor from him; which licence shall not be granted until the owner of such carriage, or some other person in his behalf, shall pay to the collector of the tolls for every coach or other four wheeled riding carriage so entered, the sum of forty shillings; for every two wheeled chaise or chair, the sum of twenty shillings; for every waggon, the sum of forty shillings; for every cart the sum of twenty shillings. And the said commissioners, or a major part of them, shall and may nominate and appoint some fit person or persons to receive the tolls or duties aforesaid and to see that the gates and turnpikes are duly repaired and amended, and from time to time remove such persons as they shall see occasion, and appoint others, in case of death, or such removal; and the person or persons so ap-

pointed to receive the tolls or duties aforesaid, shall account before the said commissioners, or such of them as shall be appointed by a majority of them, in the months of April and October yearly, or oftener if required, upon oath, for the monies which they shall have received by virtue of this act; and the commissioners shall and may, out of the money arising as aforesaid, make allowance to such persons by them to be appointed as aforesaid, for their care and trouble in the execution of their office, as to them shall seem proper; always taking bond, with good and sufficient security, from the persons appointed, for the due and faithful execution of their office, and rendering such account. And in case any such collector shall refuse to account, or pay the whole duties by him received, it shall and may be lawful for the said trustees, upon motion made to the county court, to demand judgment against such collector for all duties or tolls wherewith he shall be chargeable by this act; and such court may give judgment, and award execution thereupon, against such collector and his securities, provided they have ten days previous notice.

III. *And be it further enacted*, That the money arising from the tolls and duties hereby imposed, shall by the said commissioners be applied towards defraying the expences of clearing and keeping in repair the roads leading from Snigger's and Vestal's gaps to Alexandria, and also from George-town to Alexandria. And the better to enable the said commissioners immediately to set about repairing the said roads, and to erect gates or turnpikes thereon,

Appropriation of tolls.

IV. *Be it enacted*, That from and after the passing of this act, it shall and may be lawful for the county courts of Fairfax, Loudoun, Berkeley, and Frederick, respectively, and they are hereby authorised and required, to levy and assess upon the owners of property living within their several counties, for three years next ensuing, the following sums annually, that is to say: On the inhabitants of Fairfax county, the sum of sixty pounds; of Loudoun, the sum of sixty pounds; of Berkeley, the sum of sixty pounds; of Frederick, the sum of sixty pounds; to be paid by such persons, in proportion to their property assessed under the revenue law; which said several sums shall be collected in the same manner as the levies in those counties are col-

Levies payable by counties of Fairfax, Loudoun Berkeley and Frederick, for repairing roads.

lected, and by the respective sheriffs paid to the said commissioners: And the said commissioners, or a majority of them, shall be, and they are hereby authorized and required, to lay out and disburse the money so levied annually, in such manner as they shall think best for keeping the roads from Snigger's and Vestal's gaps to Alexandria, and the road from George town to Alexandria in repair. And the sheriffs of the said counties respectively, shall give bond, with sufficient security, for the faithful collection of the money so levied, and for accounting and paying the same to the said commissioners; and in case of failure or neglect, shall be liable, on the motion of the said commissioners, in the same manner as by law they are now liable for not accounting and paying other levies. *Provided*, That nothing herein contained shall be construed, deemed, or taken, so as to restrain or exempt the courts of the aforesaid counties of Fairfax and Loudoun respectively, from allotting the hands which have usually worked on these roads, from assisting in repairing and amending the same within their proper districts, in the manner already directed by law, excepting only that they shall not appoint overseers over the several districts of the roads directed to be repaired by this act; but it shall and may be lawful for the said courts, and they are hereby required, to cause a list of all tithables within their respective counties, which are by law compellable to work on the aforesaid roads, specifying the several districts they belong to, to be delivered to the said commissioners, who shall and may direct the person or persons by them appointed or employed in the execution of this act, to summon any of the said tithables, at any time they shall see cause, to work on the said roads within the districts specified by the said lists; provided the number of days which each tithable shall work thereon, does not exceed six, in the space of any one year. And if any free person called out as aforesaid, shall wilfully, and without a sufficient excuse, neglect or refuse to appear, he shall be liable to the penalty of six shillings for every day he shall so refuse or neglect to appear, or to work upon the said road when there; to be recovered, with costs, by warrant, before a single magistrate, by the person appointed by the said commissioners to overlook and direct the repairs of the said roads to which such free tithable so

offending shall belong. And that if any master, mistress, or overseer, shall, without a sufficient excuse, neglect or refuse to send the respective male tithable servants or slaves to him or her belonging, or under the care of such overseer, within the said districts, to work upon the said roads when required by the person or persons employed by the said commissioners to overlook the repairs of the said roads, such master, mistress, or overseer, shall be respectively liable to the penalty of six shillings for every such male tithable servant or slave so neglected to be sent by such master, mistress, or overseer; which said penalty shall be paid to the commissioners appointed by this act, and by them applied towards repairing the roads herein before mentioned. And to the end that this act may be duly enforced,

V. *It is further enacted*, That every person employed by the said commissioners to overlook the repairs of the above mentioned roads, who shall neglect to apply for a warrant against the several persons offending against this act, shall be liable to the penalty of six shillings for every such neglect; which said penalty shall be recovered, with costs, by warrant, before a single justice, by any one of the said commissioners who shall apply for the same, and when recovered, shall by such commissioner be applied towards repairing the aforesaid roads.

Overlookers of repairs, to enforce penalties.

VI. *And be it further enacted*, That the said commissioners, or any person or persons by them appointed, shall and may, and they are hereby empowered, to cut timber, dig earth, and take stone, adjoining or convenient to the aforesaid roads, for the purpose of building or repairing bridges, and repairing the aforesaid roads: *Provided always*, That any timber so cut, or stone taken, shall be first valued (unless the owner or owners thereof consent thereto) in the manner directed by an act of assembly "For the more effectual keeping the public roads and bridges in repair;" which valuation shall be paid by the commissioners, out of the money levied by the aforesaid counties as herein before-mentioned, or out of the money arising from the tolls or duties herein before imposed. And for continuing the succession of the said commissioners,

Power of commissioners to procure timber, stone, &c.

VII. *Be it further enacted*, That it shall and may be lawful to and for the said commissioners, or the major

Vacancies, in commissioners, how supplied.

part of them, from time to time; upon the death, resignation, or removal, of any of the commissioners herein before named, or hereafter to be appointed, to elect or choose one or more person or persons, instead of the commissioner or commissioners so dying, resigning or removing: And if it shall be found necessary to erect turnpikes on any of the aforesaid roads, at a greater distance from Alexandria than is herein before-mentioned; it shall be lawful for the said commissioners, or a majority of them, to erect, or cause to be erected, a turnpike or turnpikes at such place or places as they may think necessary, and to impose reasonable tolls or duties on things passing through such turnpike or turnpikes, so as not to exceed the tolls on any thing herein before-mentioned.

Penalty for
evading toll.

VIII. *And be it further enacted*, That any free person who shall drive any riding carriage, or waggon or cart, round any turnpike, with an intention to evade the payment of the toll, shall forfeit and pay the sum of twenty shillings; and if the person so offending shall be a servant or slave, the master or mistress shall forfeit and pay the penalty aforesaid; to be recovered before a single magistrate, on complaint of the person appointed to receive the tolls, and by him paid to the commissioners, to be by them applied to the purpose of keeping the aforesaid roads in repair.

Commission-
ers to report.

IX. *And be it further enacted*, That the aforesaid commissioners shall, in the month of June annually, return to the county court of Fairfax, a just and true account of all monies received by them or any of them, for tolls, penalties, or licences, and of the disbursements thereof; which account shall be filed by the clerk of the said court.

CHAP. XXXI.

An act concerning the location of certain warrants upon waste and unappropriated lands, in the counties of Greenbrier, Harrison, and Monongalia.

I. WHEREAS it hath been represented to this present general assembly, that previous to the extending the line between Greenbrier and Harrison counties, the latter of which has been lately taken from Monongalia, that state warrants have been located on the same parcel of land in the several counties herein mentioned, and as it is just and right that the first location should hold said land,

Provision, as to certain locations of land warrants in the counties of Greenbrier, Harrison and Monongalia.

II. *Be it therefore enacted*, That the surveyor of each of the aforesaid counties, shall, on or before the first day of June next, transmit an attested copy of all entries of state warrants made in his office, to the surveyor of each of the aforesaid counties, with the date, and quantity of land held or claimed by such entries, that the several surveyors may thereby be enabled to survey said entries to the person or persons who had the first locations.

III. *And be it further enacted*, That all surveys heretofore made in either of the aforesaid counties by virtue of the first location, shall be good and valid; any act to the contrary, notwithstanding.

An act concerning the taxes due in the county of Rockingham, for the year one thousand seven hundred and eighty-four.

William Nall
authorised to
collect taxes
of Rocking-
ham, for 1784

I. WHEREAS it hath been represented to this present general assembly, that no person would undertake the collection of the taxes in the county of Rockingham, for the year one thousand seven hundred and eighty-four, and that William Nall, the present sheriff of the said county, is willing to undertake the collection thereof, in case a reasonable time is allowed him to perform the same, as also to complete the collection of the taxes due in the said county for the present year:

Time allow-
ed him.

II. *Be it therefore enacted*, That the said William Nall, upon giving bond and security in the court of the said county of Rockingham, in the penalty required by law for collectors, shall be, and he is hereby vested with as full power to collect and distrain for the taxes due in the said county, for the year one thousand seven hundred and eighty-four, as if he had been sheriff thereof at the time they were payable; and the said William Nall is hereby allowed until the first day of August next, to complete the collection of the taxes in the said county, for the last as well as the present year; and if he shall fail to make payment thereof into the public treasury on or before the said first day of August, it shall and may be lawful for the solicitor-general to move for judgment against him at the next October general court, or at any other session of the said court subsequent to such failure. The said William Nall shall in all cases respecting the collection of the said taxes, be entitled to the same emoluments, and shall be subject to the like penalties and damages, as directed in the cases of sheriffs and collectors by the several laws for collecting the revenue of this state.

CHAP. XXXIII.

An act for establishing several new ferries.

BE it enacted by the General Assembly, That public ferries shall be constantly kept at the following places, and the rates for passing the same be as followeth, that is to say: From the land of Thomas Evans, across Monongalia river, at the mouth of Decker's creek, to the opposite shore, for a man three pence, and for a horse the same; from the land of Nicholas Lewis, in the county of Albemarle, across the Rivanna, or North fork of James river, for a man three pence, and for a horse the same; from the land of John Pettyjohn, in the county of Monongalia, across the Tyger Valley river, to his land on the opposite shore, for a man three pence, and for a horse the same; from the land of John Turberville, known by the name of Dial's landing, in the county of Fairfax, across Potowmack river, to the opposite shore in the state of Maryland, for a man six pence, and for a horse the same; from the land of James Hogan, in the county of Lincoln, across the Kentucky river, at the mouth of Hickman's creek, to his lands on the opposite shore, in the county of Fayette, for a man four pence, and for a horse the same; from the land of Andrew Jee, in the county of Monongalia, across Cheat river, to the land of Jacob Scott, on the opposite shore, for a man three pence, and for a horse the same; from the land of Thomas Butler, in the county of Monongalia, across Cheat river, to his land on the opposite shore, for a man three pence, and for a horse the same; from the land of David Crews, in the county of Lincoln, across the Kentucky river, at the mouth of Jack's creek, to the opposite shore, in the county of Fayette, for a man four pence, and for a horse the same; from the land of William Anderson, in the county of Botetourt, across James river, to the land of William Crow on the opposite shore, for a man three pence, and for a horse the same; from the land of William Steele, in the county of Fayette, across Kentucky river, at the place called Stone Lick, to the land of John Craig, in the county of Lincoln, for a man four pence, and for a horse the same; from the

New ferries
established.

Rates.

land of John Campbell, in the county of Jefferson, across the Ohio river, to the mouth of Silver creek, for a man one shilling, and for a horse the same; from the said land across the Ohio river, to the mouth of Mill-Run, for a man nine pence, and for a horse the same: And for the transportation of wheel carriages, tobacco, cattle, and other beasts, at the places aforesaid, the ferry-keepers may respectively demand and take the same rates as by law are established at other ferries.—

Penalty for
exceeding le-
gal rates.

If any ferry-keeper shall demand or receive from any person or persons whatsoever, any greater rates than are hereby allowed for the ferriage or carriage of any thing, he shall, for every such offence, forfeit and pay to the party grieved the ferriages demanded or received, and ten shillings; to be recovered, with costs, before a justice of the peace of the county where the offence shall be committed.

CHAP. XXXIV.

From revised
bills of 1779,
ch. LXXXII.

*An act for establishing religious freedom.**

Preamble.

I. WHEREAS Almighty God hath created the mind free; that all attempts to influence it by temporal punishments or burthens, or by civil incapacitations, tend only to beget habits of hypocrisy and meanness, and are a departure from the plan of the Holy author of our religion, who being Lord both of body and mind, yet chose not to propagate it by coercions on either, as was in his Almighty power to do; that the impious presumption of legislators and rulers, civil as well as ecclesiastical, who being themselves but fallible and uninspired men, have assumed dominion over the faith of others, setting up their own opinions and modes of thinking as the only true and infallible, and as such endeavouring to impose them on others, hath established

* In the preamble to this act, some variations have been made from the original bill, as reported by the rev. sons, which render the style less elegant, though the sense is not affected. See the note to edi. 1814. pa. 41.

and maintained false religions over the greatest part of the world, and through all time; that to compel a man to furnish contributions of money for the propagation of opinions which he disbelieves, is sinful and tyrannical; that even the forcing him to support this or that teacher of his own religious persuasion, is depriving him of the comfortable liberty of giving his contributions to the particular pastor, whose morals he would make his pattern, and whose powers he feels most persuasive to righteousness, and is withdrawing from the ministry those temporary rewards, which proceeding from an approbation of their personal conduct, are an additional incitement to earnest and unremitting labours for the instruction of mankind; that our civil rights have no dependence on our religious opinions, any more than our opinions in physics or geometry; that therefore the proscribing any citizen as unworthy the public confidence by laying upon him an incapacity of being called to offices of trust and emolument, unless he profess or renounce this or that religious opinion, is depriving him injuriously of those privileges and advantages to which in common with his fellow-citizens he has a natural right; that it tends only to corrupt the principles of that religion it is meant to encourage, by bribing with a monopoly of wordly honours and emoluments, those who will externally profess and conform to it; that though indeed these are criminal who do not withstand such temptation, yet neither are those innocent who lay the bait in their way; that to suffer the civil magistrate to intrude his powers into the field of opinion, and to restrain the profession or propagation of principles on supposition of their ill tendency, is a dangerous fallacy, which at once destroys all religious liberty, because he being of course judge of that tendency will make his opinions the rule of judgment, and approve or condemn the sentiments of others only as they shall square with or differ from his own; that it is time enough for the rightful purposes of civil government, for its officers to interfere when principles break out into overt acts against peace and good order; and finally, that truth is great and will prevail if left to herself, that she is the proper and sufficient antagonist to error, and has nothing to fear from the conflict, unless by human interposition disarmed of her natural weapons, free argument and debate, errors

ceasing to be dangerous when it is permitted freely to contradict them:

None compelled to frequent, or support any religious worship. All free to profess, & by argument to maintain their religious opinions.

II. *Be it enacted by the General Assembly*, That no man shall be compelled to frequent or support any religious worship, place, or ministry whatsoever, nor shall be enforced, restrained, molested, or burthened in his body or goods, nor shall otherwise suffer on account of his religious opinions or belief; but that all men shall be free to profess, and by argument to maintain, their opinion in matters of religion, and that the same shall in no wise diminish, enlarge, or affect their civil capacities.

Declaration that the rights by this act asserted, are of the natural rights of man.

III. And though we well know that this assembly elected by the people for the ordinary purposes of legislation only, have no power to restrain the acts of succeeding assemblies, constituted with powers equal to our own, and that therefore to declare this act to be irrevocable would be of no effect in law; yet we are free to declare, and do declare, that the rights hereby asserted are of the natural rights of mankind, and that if any act shall be hereafter passed to repeal the present, or to narrow its operation, such act will be an infringement of natural right.

CHAP. XXXV.

An act for dividing the county of Hampshire.

Hampshire county divided and Hardy formed.

BE it enacted by the General Assembly, That from and after the first day of February next, the county of Hampshire shall be divided into two distinct counties, by a line beginning at the north branch of Potowmack, opposite to the mouth of Savage river, and running thence in a direct course so as to strike the upper end of the plantation known by the name of Myres's mill, on New creek; thence in a direct course to John Lewis's mill, on Patterson's creek; thence in a direct course to the highest part of the mountain known by the name of the High Nob; thence in a direct course to the gap

Boundaries.

of the Short Arse mountain, where the North river runs through the same; thence along the road leading by the upper end of Henry Fry's plantation, on cape Capon, and along the said road to the top of the North mountain to the dividing line between the counties of Shenandoah and Hampshire; and that all that part of the said county lying south of the said line shall be called and known by the name of Hardy; and the residue of the said county shall retain the name of Hampshire. A court for the said county of Hardy, shall be held by the justices thereof on the Friday after the second Tuesday in every month, after such division shall take place, in such manner as is provided by law for other counties, and shall be by their respective commissions directed. The justices to be named in the commission of the peace for the said county of Hardy, shall meet at the house of William Bullitt, in the said county, upon the first court-day after the said division shall take place; and having taken the oaths prescribed by law, and administered the oath of office to, and taken bond of the sheriff, according to law, shall proceed to appoint and qualify a clerk, and fix upon a place for holding courts in the said county at or as near the centre thereof as the situation and convenience will admit; and thenceforth the said court shall proceed to erect the necessary public buildings at such place, and until such buildings be completed, to appoint any place for holding courts as they shall think proper. *Provided always,* That the appointment of a place for holding courts, and of a clerk, shall not be made unless a majority of the justices of the said county be present; where such majority shall have been prevented from attending by bad weather, or their being at the time out of the county, in such case the appointment shall be postponed until some court-day when a majority shall be present. The governor, with the advice of the council, shall appoint a person to be first sheriff of the said county, who shall continue in office during the term, and upon the same conditions, as is by law appointed for other sheriffs. *Provided also,* That it shall be lawful for the sheriff of the said county of Hampshire, to collect and make distress for any public dues or officers fees, which shall remain unpaid by the inhabitants thereof at the time such division shall take place, and shall be accountable for the same in like manner as if

Court days.

this act had not been made. And that the court of the said county of Hampshire, shall have jurisdiction of all actions and suits, in law or equity, depending before them at the time of the said division, and shall try and determine the same, and award execution thereupon. That in all elections of a senator, the said county of Hardy shall be of the same district with the said county of Hampshire.

CHAP. XXXVI.

An act for reviving, amending, and continuing An act to revive and amend in part, an act for giving further time to enter certificates for settlement rights, and for locating warrants upon pre-emption rights, and for other purposes.

Further time allowed to enter certificates for settlement rights and for locating warrants upon pre-emption rights.

I. WHEREAS the act of assembly, passed in the year one thousand seven hundred and eighty-four, intituled "An act to revive and amend in part, an act, intituled an act for giving farther time to enter certificates for settlement rights, and for locating warrants upon pre-emption rights, and for other purposes," which was continued by a subsequent act, expired on the first day of June last, and it is expedient that the same should be revived, continued, and amended:

II. *Be it therefore enacted*, That the said recited act shall be revived, and continue and be in force until the first day of November, one thousand seven hundred and eighty-six, and no longer; within which time, the register of the land-office, or his deputy, shall receive all plats and certificates of survey, although not returned within the time heretofore limited by law; and such lands shall not be considered as forfeited, or liable to a forfeiture on that account. And whereas, the time allowed for entering certificates for settlement rights is

expired, and it being adjudged necessary that the same ought to be revived and continued,

III. *Be it therefore enacted*, That it shall and may be lawful for the surveyors of this commonwealth, within their respective counties, at any time before the first day of June next, to receive and enter all such certificates, or the attested copies of such as shall be lost, and to proceed to survey the same as the law directs. And whereas sundry persons have been prevented by unavoidable accident, from obtaining and entering pre-emption warrants before the register of the land-office was prohibited from issuing any more warrants by a resolution of the general assembly.

IV. *Be it further enacted*, That all such persons shall be allowed until the said first day of November, to obtain and enter such warrants. And that every person entitled to a pre-emption warrant as aforesaid, shall pay into the public treasury, thirteen shillings and four-pence for every hundred acres of land, in specie or audited certificates, in full for the state price heretofore required, which being audited, and a certificate thereof produced to the register of the land-office, the said register is hereby authorized and directed to issue such warrant to the party entitled to the same, or to his assigns. Price of pre-emption warrants.

CHAP. XXXVII.

An act for dividing the county of Fayette.

BE it enacted by the General Assembly, That from and after the first day of May, one thousand seven hundred and eighty-six, the county of Fayette shall be divided into two distinct counties, that is to say, so much of the said county within the following lines: Beginning at the mouth of upper Howard's creek, on Kentucky river, running up the main fork thereof to the head; thence with the dividing ridge between Kentucky Fayette county divided, & Bourbon formed.
Boundaries.

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and Licking-creek, until it comes opposite the head of Eagle creek, from thence a direct line to the nearest part of Raven creek, a branch of Licking, down Raven creek to the mouth thereof; thence with Licking to the Ohio; thence with the Ohio to the mouth of Sandy creek, up Sandy creek, to the Cumberland mountain; thence with the said mountain to the line of Lincoln county; thence with that line, and down Kentucky river, to the beginning; shall be one distinct county, and called and known by the name of Bourbon; and the residue of the said county shall retain the name of Fayette. A court for the said county of Bourbon, shall be held by the justices thereof on the third Tuesday in every month, after the said division shall take place, in such manner as is provided by law for other counties, and shall be by their commissions directed. The justices to be named in the commission of the peace for the said county of Bourbon, shall meet at the house of James Garrard, in the said county, upon the first court day after the said division shall take place, and having taken the oaths prescribed by law, and administered the oath of office to, and taken bond of the sheriff according to law, proceed to appoint and qualify a clerk, and fix upon a place for holding courts in the said county, at or as near the centre thereof as the situation and convenience will admit of; and thenceforth the said court shall proceed to erect the necessary public buildings at such place, and until such buildings be completed, to appoint any place for holding courts as they may think proper. *Provided always*, That the appointment of a place for holding courts, and of a clerk, shall not be made unless a majority of the justices of the said county be present; where such majority shall have been prevented from attending by bad weather, or their being at the time out of the county; in such cases the appointment shall be postponed until some court day when a majority shall be present. The governor, with advice of the council, shall appoint a person to be first sheriff of the said county, who shall continue in office during the term, and upon the same conditions, as is by law appointed for other sheriffs. It shall be lawful for the sheriff of the said county of Fayette to collect and make distress for any public dues or officers fees, which shall remain unpaid by the inhabitants thereof at the time such division shall take place, and shall be

accountable for the same in like manner as if this act had not been made. And that the court of the said county of Fayette shall have jurisdiction of all actions and suits, in law or equity, which shall be depending before them at the time of the said division, and shall try and determine the same, issue process, and award execution thereon. In all elections of a senator, the said county of Bourbon shall be of the same district with the said county of Fayette.

CHAP. XXXVIII.

An act to revive an act, intituled An act for the better regulating and collecting certain officers fees, and for other purposes therein mentioned.

I. WHEREAS the act of assembly, passed in the year one thousand seven hundred and forty-five, intituled "An act for the better regulating and collecting certain officers fees, and other purposes therein mentioned," hath expired, and it is expedient and necessary that the same should be revived and amended:

Act of 1745,
for regulat-
ing and col-
lecting cer-
tain officers
fees, revived
and amended

II. *Be it therefore enacted*, That the act, intituled, "An act for the better regulating and collecting certain officers fees, and other purposes therein mentioned," be revived, except so much thereof as relates to the delivery, collecting, and recovery of the fees formerly payable to the secretary and surveyors, and shall continue, and be in force from and after the passing of this act, for and during the term of two years, and from thence to the end of the next session of assembly, and no longer.

III. *And be it enacted*, That all persons who now are, or shall hereafter become chargeable with any tobacco fees, for services mentioned in the said recited act, shall discharge the same in manner directed by the act of assembly passed in the year one thousand seven

Tobacco fees
how payable
in money.

hundred and eighty-one, intituled "An act for regulating tobacco fees, and fixing the allowance to sheriffs, witnesses, and venire-men."

Fees of
clerks of high
court of chan-
cery, court of
appeals, and
general court
when to be
put into hands
of sheriff.

**When sher-
iff to account.**

Commissions.

**Remedy. by
motion.**

**Executors &
administra-
tors of sheriffs
liable.**

**Receipt for
fees, evidence**

IV. *And be it enacted*, That the clerks of the high court of chancery, court of appeals, and general court, to whom the fees formerly allowed to the secretary, are now payable, shall deliver their tickets to the respective sheriffs annually, before the first day of May, and the sheriffs shall receive and collect the same, and shall distrain and make sale of the debtors slaves, goods, or chattels, for all such tickets as shall remain unpaid after the first day of July in any year. And if the said sheriffs shall fail to pay the said fees to the respective clerks, at their offices in Richmond, or such town or place as the treasury may be kept at, by the fifteenth day of September annually, abating ten *per cent*: for collecting, and making an allowance for insolvencies, and non-residents, having no estate within the county, which shall be accounted for on oath, the said clerks, or either of whom, upon motion made in the general court, or court of any county, in which the sheriff failing to make payment, as aforesaid, may be found, may demand judgment against him for all fees wherewith he shall be chargeable by this act; and such court respectively shall enter judgment accordingly, provided the sheriff have ten days notice of such motion; and that judgment may be obtained as aforesaid against any under sheriff who may fail to add the name of his principal to the receipt for such fees.

V. *And be it further enacted*, That the executors or administrators of any such sheriff, or under sheriff, shall be liable to judgment, as aforesaid, for the fees received, to be collected by their testator or intestate, and accounted for. That every receipt for fees produced in evidence on any such motion, shall be deemed to be the act of the person subscribing it, unless he shall deny the same upon oath. That the clerks of the said courts may obtain judgments, as aforesaid, for all balances now due to them from any sheriff, or under sheriff, on account of fees heretofore put into their hands to be collected.

CHAP. XXXVII.*

An act to authorize the election of certain Vestries.

I. WHEREAS the members of the Protestant Episcopal Church, residing in many parishes within this commonwealth, have been prevented from carrying into execution an act for incorporating the Protestant Episcopal Church within the period therein limited for the election of vestries, occasioned by the said law not having been sufficiently promulgated, so as to enable the members of the said church to proceed in the execution thereof:

Vestries of
Protestant
Episcopal
church, when
elected.

II. *BE it therefore enacted by the General Assembly,* That elections for vestrymen, in manner prescribed by the said recited act, shall be held in all such parishes on Monday in next Easter-week, if fair, if not, on the next fair day. And the said vestries, when elected and qualified, shall have the same powers and authority, and be subject to the like rules and regulations, as other vestries within this commonwealth are by the said act entitled to, governed by, and vested with.

 CHAP. XXXVIII.*

An act to prevent distress being made by the sheriffs of this commonwealth for the taxes due for the present year, until March next, and admitting facilities in payment thereof.

I. WHEREAS by an act of assembly, intituled "An act to discharge the people of this commonwealth from the payment of one half of the revenue tax for the year one thousand seven hundred and eighty-five," the

Distress for
certain taxes,
suspended.

* Chapters XXXVII and XXXVIII are repeated in the original.

several sheriffs and collectors of taxes are authorized to distrain for the payment of the other half of the tax for the said year, on the first day of September last past; and whereas it appears to this assembly, that many of the citizens of this state have been hitherto unable to make payment thereof, and that it is requisite and necessary to give further time for the payment of so much of the same as may not be at present collected:

II. *Be it therefore enacted*, That the several sheriffs and collectors may continue, notwithstanding the commission of such sheriffs or collectors may have expired, to collect the same, but shall not make distress for any part thereof from the passing of this act, until the first day of March next; and the several sheriffs and collectors of the said half tax, shall pay the same into the public treasury, on or before the first day of May; and in default of such payment, shall be liable to judgment, with interest, costs, and damages, according to law, on motion to be made by the solicitor, or other person appointed for that purpose, at the additional session of the general court in the month of June next, or at any session subsequent to such delinquency; ten days previous notice being given of such motion. And whereas it further appears, that the time heretofore appointed for the collection of the revenues of this state, under the act, intituled "An act to amend and reduce the several acts of assembly for ascertaining certain taxes and duties, and for establishing a permanent revenue, into one act," commences at a period too early in the season to give the people proper opportunity of making sale of the produce of their lands at the full value thereof: For remedy whereof,

III. *Be it enacted*, That the collection of the revenues of this state, arising under the said recited act, except so much as respects the half tax for the year seventeen hundred and eighty-five, shall commence on the first day of November in each year; and the several sheriffs and collectors of taxes, may distrain for the same on the first day of January thereafter, and shall make payment thereof into the public treasury, on or before the first day of April annually; and in default of such payment, shall be liable to a judgment, with interest, costs, and damages, according to law, on motion to be made by the solicitor-general, or other

Collection of
taxes, when
to commence

person appointed for that purpose, at any session of the general court, subsequent to such failure; ten days previous notice being given of such motion.

IV. *And be it further enacted*, That it shall and may be lawful for the governor, with advice of council, to direct the solicitor-general to suspend execution upon any judgment which hath heretofore been obtained, or which hereafter may be obtained against any delinquent sheriff or collector, or any other person whatsoever, for public monies in their hands, for any time that may to him, with advice aforesaid, seem reasonable; and also, with the advice aforesaid, to remit the whole or any part of the interest or damages arising on such judgment.

Executive may direct solicitor general to suspend executions against sheriffs; and may remit damages.

V. *And be it further enacted*, That any person chargeable with any part of the half tax for the year seventeen hundred and eighty-five, may in addition to the warrants heretofore admitted by law in payment of the revenue tax, pay the whole or any part thereof in warrants granted, or to be hereafter granted by the auditors of public accounts, for interest due on the loan-office certificates of this state. And whereas the United States in congress assembled, have, by their act of September the twenty-seventh, one thousand seven hundred and eighty-five, made a requisition on the several states in the union, for certain sums therein specified for the services of the current year, and for the discharge of one year's interest on the foreign and domestic debt; and have by the said act, declared that the several legislatures may so model the collection of the sums called for, that one third of any sum being paid in actual money, the other two-thirds may be discharged by the interest due upon loan-office certificates, and upon other certificates of the liquidated debts of the United States;

Facilities receivable in taxes.

Warrants of this state.

VI. *Be it therefore enacted*, That it shall and may be lawful for any person chargeable with any part of the half tax, for the year seventeen hundred and eighty-five, to make payment of any part not exceeding two-thirds thereof, in certificates issued, or to be hereafter issued, by John Hopkins, esq. commissioner of the continental loan office in this state, for interest due upon loan office certificates, or upon other certificates of the liquidated debts of the United States (or in case of the death, removal from office, or disability of the

U. States' loan-office certificates; or interest warrants issued thereon; or on liquidated debts of U. States.

said John Hopkins, by such other person as may be appointed commissioner thereof, to be notified by proclamation of the governor.) And the several sheriffs or collectors, shall be allowed a discount with the treasurer, in their settlement of the said half tax, for all such certificates so by them received; provided such certificates do not amount to more than two-thirds of the sum by such sheriff or collector received in payment of the half tax aforesaid.

How sheriffs
to verify the
identical cer-
tificates re-
ceived for
taxes.

VII. *And be it further enacted*, That every sheriff or collector of the said half tax, who shall collect any of the said continental interest certificates, shall before he shall be admitted to make payment of any of the said certificates into the public treasury, exhibit an account on oath, before the court of the county or corporation where such collection shall be made, stating the amount of such certificates by him received in payment of the said half tax, and the names of the persons who have paid the same; which account shall be entered of record, and an attested copy thereof delivered to the said sheriff or collector, to be by him delivered to the auditors of public accounts, previous to his settlement with them, or payment of any of the said interest certificates into the public treasury, and the auditors shall thereupon grant a warrant for the payment of all interest certificates which shall appear by such attested account to have been actually and bona fide received by such sheriff or collector in payment of the said half tax; provided always that such interest certificates shall not exceed two-thirds of the amount of the sum with which such sheriff or collector is chargeable. Nothing herein contained shall be construed to affect the collection of the taxes for the county of Rockingham, for the years one thousand seven hundred and eighty-four, and one thousand seven hundred and eighty-five, so as to require the payment thereof sooner than prescribed by an act of the present session, intituled "An act concerning the taxes due in the county of Rockingham, for the year one thousand seven hundred and eighty-four," but the said act shall be in as full force as if this act had never been made: And so much of every other act, as comes within the purview of this act, shall be, and the same is hereby repealed.

CHAP. XXXIX.

An act for the sale of certain public lands.

I. *BE it enacted by the General Assembly*, That the public lands lying in the counties of York and Elizabeth City, except a point of land in the last mentioned county, called Point-Comfort, shall be, and they are hereby vested in Joseph Prentis, Richard Cary, jun. Wilson Cary, Miles King, Worlich Westwood, and Nathaniel Nelson, gentlemen, commissioners, who, or a majority of them, are hereby authorized and required, to make sale of the same in manner and on conditions herein after prescribed. The said commissioners shall give previous notice of such sale, at least sixty days, in the Virginia Gazette, and dispose of the said lands by public auction, on the premises, to the highest bidder, on the day appointed, if fair, and if not, the next fair day, payable in ready money, or officers or soldiers certificates, as to the commissioners may appear most expedient, previously agreeing among themselves, and publishing to the bidders the par at which certificates will be received in lieu of specie. Upon receipt of the full consideration for the sale of the said lands, the said commissioners, or a majority of them, shall execute conveyances for the same to the purchasers in fee, and pay the money, or certificates, as the case may be, into the public treasury, deducting thereout two per cent. for the trouble of the said commissioners, or such of them as may execute this act.

Public lands
in York and
Elizabeth Ci-
ty, except
Point-Com-
fort, to be
sold.

Mode & terms
of sale.

Conveyances
to purchasers

II. *And be it further enacted*, That the said commissioners, or a majority of them, shall be, and they are hereby authorized and empowered, to sue for and recover all arrears of rent now due from the persons to whom any of the said lands may have been let, and shall account for the same in the like manner, and be entitled to the same commission for their trouble, as is herein before allowed for receiving the purchase money for the said lands.

Arrears of
rent, how re-
coverable.

CHAP. XL.

An act to amend the several acts of assembly concerning the appointment of sheriffs.

Courts failing to nominate sheriffs, executive may appoint.

Penalty on sheriff failing to accept the office.

How excused

How long sheriff may continue in office.

I. *BE it enacted by the General Assembly, That* where the court of any county hath failed, or shall fail, within the months of June and July annually, to nominate three persons, one of whom to be approved and commissioned by the governor, with the advice of council, as sheriff for the said county, the governor, with the advice of council, may, after the period for nomination hath expired, and no certificate of nomination been received by the executive, proceed to commission some one justice in the commission of the peace for the said county, to execute the office of sheriff within the same. Every person so commissioned sheriff, or commissioned in pursuance of a nomination from the county court, and refusing to accept and execute the office, shall forfeit fifty pounds, to the use of the commonwealth; to be recovered, with costs, on motion by the solicitor, in the general court, giving the party ten days previous notice of such motion; but if the person refusing to act, shall make oath in court, or produce other satisfactory proof, that he hath used his best endeavors truly and bona fide without covin and collusion, to get security for performing the said office, without being able to obtain such security, he shall thereupon be exempted from the penalty, and a new commission issued as in case of vacancy by death.

II. *And be it further enacted, That every sheriff* hereafter commissioned and qualified as aforesaid, shall be continued in office for one year after his qualification, and may with his own consent, and the approbation of the executive, be continued for two years, and no longer; unless by some accident or impediment a succeeding sheriff shall be prevented from qualifying, in which case the preceding sheriff shall continue to act until a successor shall be qualified according to the directions of this act. *Provided always; That no member of either house of assembly shall be liable to any forfeiture or penalty for refusing to accept the said office.*

CHAP. XLI.

An act to repeal an act, intituled An act concerning entries and surveys on the western waters, and for other purposes.

I. WHEREAS the time limited by an act, intituled Preamble.
 “An act concerning entries and surveys on the western waters,” hath been found too short for the owners of entries to carry the same into actual surveys, and the mode therein prescribed being found inconvenient:

II. *Be it enacted by the General Assembly, That* so much of the said recited act as directs that all entries made before the passing of the said act shall be surveyed by the first day of February next, or for the surveying of all future entries on the western waters within one year from the date thereof be, and the same is hereby repealed. Former act, limiting time for surveying entries on western waters repealed.

III. *And be it further enacted, That* immediately after the first day of January, in the year one thousand seven hundred and eighty-seven, the principal surveyor of every county on the western waters shall, and he is hereby required, to give notice to all persons claiming land by entry within his county, or to their agents, attornies, or other persons acting in their behalf, either personally, or by affixing the same at the court-house door, or other usual place of holding the courts of the said county, on two several court-days, that he will proceed by himself, or one of his deputies, to survey the lands therein mentioned on a certain day which he shall appoint, which day so appointed shall be one month at the least after the notice given or last time of advertising the same. And if any person, or his agent or attorney, as aforesaid, shall fail or neglect to attend the surveyor, with chain-carriers and a person to mark the lines as required by law, on the day appointed for that purpose, such entry shall become void, and the lands liable to be again entered for by any person holding a land warrant; and the surveyor shall return the warrant on which such entry was made, to the person owning the same, or his agent, which may nevertheless be located on any waste or unappropriated lands, Surveyors, when & how to give notice to owners of entries, of intention to survey.
On failure to attend with chain carriers &c. entries void.
Surveyor to return warrant, but it may be re-located.

Owners of entries now made to appoint agents.

Saving to infants, and prisoners in captivity.

Or accidents.

Locations with deputy surveyor of Jefferson county confirmed.

or on the same lands, if not already taken by some other warrant. And the owners of entries already made, shall, on or before the said first day of January, appoint some person within the county where the lands lie, or their agent or attorney, who shall give notice of such appointment to the surveyor, within one month thereafter, or on failure thereof, his entry shall become void. *Provided*. That nothing in this or any other act shall extend to forfeit or make void any entry claimed by infants, or prisoners in captivity, but that all such persons shall have three years after their several disabilities are removed, to compleat the same: *Provided also*, That, if on the day appointed by the surveyor for the surveying any entry as before directed, he shall be prevented, by accident or other cause, from making the same, such entry shall not, in that case, become void, but the surveyor shall give other notice as often as such cases shall happen. And whereas the principal surveyor of Jefferson county resigned his office in the month of July, in the year one thousand seven hundred and eighty-four, but after such resignation, and before notice thereof could be given of his office, sundry locations and surveys were made with the deputy, and it is just and reasonable to confirm the same.

IV. *Be it therefore enacted*, That all such locations and surveys shall, to all intents and purposes, be good and valid, and shall entitle the persons claiming land under the same to the same preference as they would have had, if no such resignation had taken place.

CHAP. XLII.

An act to dispose of the waste and unappropriated lands in the commonwealth of Virginia, on the eastern waters.

On what terms, and in what manner,

FOR creating a fund in aid of the annual taxes, to discharge the public debt, *Be it enacted by the General*

Assembly, That any person may acquire title to so much waste and unappropriated land, lying within this commonwealth, on the eastern waters, as he shall desire to purchase, on paying the consideration of twenty-five pounds for every hundred acres, and so in proportion for a greater or smaller quantity, and obtaining certificate from the auditor of public accounts in the following manner: The consideration money shall be paid into the hands of the treasurer, who shall give to the purchaser a receipt for the payment, specifying the purpose it was made for, which being delivered to the auditor, he shall give to such person a certificate thereof, with the quantity of land he or she is entitled to, and upon lodging the same in the land-office, the register thereof shall grant to such person or persons a warrant, authorizing the surveyor of the county where the land lies to lay off and survey the same therein, under the like fees, rules, regulations, and restrictions, as are directed and prescribed for the issuing, entering, locating, surveying and granting patents on warrants, by the law now in force relative thereto. All fees accruing to the commonwealth, shall be paid into the treasury by the register of the land-office, in the same manner, and under the same penalties, as directed in the act appropriating the fees of the land-office, in aid of the public revenue, and placing the register, his deputies and assistants, on the civil list; and the said fees, with the money arising on the sales aforesaid, shall be applied by the treasurer in aid of the funds set apart for payment of foreign creditors. *Provided nevertheless,* That nothing herein contained shall be construed to affect any legal entry made before the passing of this act, nor any pre-emption right to marshes or sunken grounds.

waste and un-
appropriated
lands on east-
ern waters
may be ob-
tained.

Not to affect
pre-emption
rights to mar-
shes or sunk-
en grounds.

CHAP. XLIII.

An act for reviving and continuing the act for adjusting claims for property impressed or taken for public service.

Act for adjusting claims for property impressed for public service, revived and continued.

I. WHEREAS the act of assembly, passed in the year one thousand seven hundred and eighty-one, intitled "An act for adjusting claims for property impressed or taken for public service," which has been continued by several subsequent acts, expired on the first day of August last, and it is expedient that the same should be revived, amended, and continued:

II. *Be it therefore enacted*, That the said recited act shall be revived, and continue and be in force until the first day of September next, and no longer.

III. *And be it further enacted*, That the auditors shall issue certificates on claims audited by the county courts since the first day of August last, in like manner as if the before recited act had not expired. *Provided*, That no county court shall be authorized to allow any claim presented to them, unless the same originated within such county.



CHAP. XLIV.

An act to amend the act concerning pensioners.

Preamble.

I. WHEREAS the United States in congress assembled, have by their act of the seventh of June last, recommended to the several states to make provision for officers, soldiers, and seamen, who have been disabled in the service of the said United States, in a certain manner in the said act described, and it is expedient and necessary that the same be adopted and carried into effect within this commonwealth; and also, it is

found that the laws now in force concerning pensioners, are very defective:

II. *Be it therefore enacted by the General Assembly,* That the auditors of public accounts be, and they are hereby authorized and directed, to make out in a book to be kept for that purpose, on the first day of January, in every year hereafter, a complete list of all officers, soldiers, and seamen, who having served in the army or navy of the United States, or in the militia in the service of the United States, and have been disabled in such service, who now are or hereafter may be on the pension list. In this list shall be expressed the pay, age, and disability of each invalid; also, the regiment, corps, or ship, to which he belonged, together with the changes which may happen, from year to year. A copy of this list shall annually, as soon as may be, after the day above-mentioned, be transmitted to the executive, who shall transmit a duplicate thereof to the secretary at war, as directed by the act of congress aforesaid.

Auditors to
make out list
of pensioners

What the
lists shall specify.

III. *And be it further enacted,* That no officer, soldier, or seaman, who has been disabled in the service of the United States, or of this commonwealth, shall, after the passing of this act, be considered as an invalid, or entitled to a pension, unless he is so disabled as to be incapable of military duty, or of obtaining a livelihood by labour, and can produce a certificate from the commanding officer, or surgeon, of the regiment, ship, corps, or company in which he served, or from a physician or surgeon of a military hospital, or other good and sufficient testimony, setting forth his disability, and that he was thus disabled while in service. All commissioned officers within the aforesaid description, disabled in the service of the United States, or of this commonwealth, in the army, navy, or militia, so as to be wholly incapable of military duty, or of obtaining a livelihood, shall be allowed a yearly pension, equal to half of their pay, respectively; and all commissioned officers, as aforesaid, who shall not have been disabled in so great a degree, shall be allowed a yearly pension, which shall correspond with the degree of their disability, compared with that of an officer wholly disabled. All non-commissioned officers and privates, within the aforesaid description, disabled in either service, as aforesaid, so

What degree
of disability
to entitle to a
pension.

Rate of pensions.

as to be wholly incapable of military duty, or of obtaining a livelihood by labour, shall be allowed a sum not exceeding five dollars per month; and all non-commissioned officers and privates, who shall not have been disabled in so great a degree, shall be allowed such a sum as shall correspond with the degree of their disability, compared with that of a non-commissioned officer or private wholly disabled.

Power of executive to admit on the pension list.

IV. *And be it further enacted*, That the governor, with advice of council, be, and he is hereby authorized and directed, to examine all claimants of pensions, as aforesaid, and upon finding any person to be an invalid, and that he was disabled while in service, to give him a certificate thereof, specifying the regiment, corps, or ship or other vessel, to which he belonged, and whether he was in the service of the United States, or of this commonwealth, when disabled, together with the degree of disability, and the pay to which he is entitled: a duplicate of which certificate, shall be transmitted to the auditors of public accounts, who shall thereupon enter such invalid on the pension list as heretofore. And in case of any claimants being so disabled or remote from the seat of government, as to render a personal attendance there too burthensome and inconvenient, the executive shall upon satisfactory proof thereof, and having sufficient evidence in their opinion, on which to found any certificate directed by this act to be given, grant such certificate, notwithstanding the non-attendance of the claimant.

Auditors to transmit lists of pensioners annually to clerks of county courts

V. *And be it further enacted*, That the auditors shall, annually, before the last day of March, transmit to the clerks of the several counties in this state, a general list of pensioners; and every pensioner shall, annually, in May or June, apply in person, or if an orphan, by his or her guardian, to the court of the county wherein he or she resides, and exhibit the certificate upon which his or her claim is founded, and make oath that he or she is the person to whom it was given; or where such person shall be unable to attend, he or she shall make the like oath before a magistrate; and the court upon comparing the certificate with the list transmitted from the auditors, and finding it to be right, shall order it to be recorded, and direct the sheriff to pay the pension; a copy of which order shall be given the pensioner: Whereupon the sheriff shall make payment thereof, and take a receipt upon the

Pensioners to be identified before county courts, and paid by sheriffs.

said order, and be entitled to credit for the same in the settlement of his account with the auditors. And to the end, that all invalids who have heretofore been put on the pension list, may regularly have certificates thereof, and be enabled to conform to the regulations in this act prescribed,

VI. *Be it enacted*, That every such invalid having a certificate, such as is above directed, shall apply to the governor, who, upon examination, and finding the same to be true, shall affix his counter signature thereto; or having no such certificate, shall in like manner make application and obtain one, specifying when he was put on the pension list.

Pension certificates to be countersigned by governor.

VII. *And be it further enacted*, That the executive shall be, and they are hereby authorized, to grant certificates for admission to the pension list, with such allowances as to them shall seem just, the widows and orphans of all officers, soldiers, and seamen, who died in the service of the United States, or of this commonwealth, in the army, navy, or militia, upon certificates from the court of the county in which they reside respectively, of their being widows or orphans of such officers, soldiers, or seamen, as the case may be: *Provided*, That no such allowances shall be made except indigency of circumstances shall render the same necessary. And to the end, that all invalid's widows and orphans who now are or hereafter may be on the pension list, may from time to time have their several allowances, adapted to the degrees of disability of the former, and necessities of the two latter, or dismissed from the said list, when such allowances become no longer requisite;

Executive authorised to place widows and orphans on pension list.

VIII. *Be it enacted*, That all pensioners shall undergo a re-examination, whenever the governor, with advice of council, shall direct; and upon any such re-examination, the executive are hereby authorized and required, to order the allowance of the pensioner to be raised or reduced according to his or her real situation; or in case the allowance shall appear to be no longer necessary, in any degree, to order such pensioner to be struck off from the list altogether.

Pensioners to undergo re-examination, and allowances increased or diminished

IX. *And be it further enacted*, That the auditors shall make up accounts of all payments which have been or hereafter may be made to invalids for their pensions, to the end of the present year, and ought, be charged

Pensioners properly chargeable to U. States, to

against the
quotas.

according to the principles of this act, to be charged to the United States, and that they charge the same against the quotas of the respective years for which such payments may have been made; and all payments of such pensions for any succeeding year, shall be charged in like manner: *Provided*, That no greater sum than half the pay of any officer shall be charged to the account of the United States. Every act or resolution of assembly concerning any matter or thing coming within the purview of this act, shall be, and the same is hereby repealed.

Limitation of
charge.

CHAP. XLV.

An act for the reform of certain public Boards.

Reform of
public boards

I. FOR introducing reform into the several public boards, and the adoption of such a system as may best accord with prudent œconomy and a due regard to the public interest,

Duties of the
3 auditors
specifically
defined.

II. *Be it enacted by the General Assembly*, That from and after the first day of March next, the business of the auditor's office shall be regulated and conducted in the following manner, to wit: It shall be the duty of one of the said auditors, assisted by one clerk, to state and bring up all deficiency of public accounts, on the books in the said office, striking the balance on every particular, as well as general head of account stated therein, whether it be for or against the public, up to the last day of December, one thousand seven hundred and eighty-five, inclusive, and collecting and arranging in due order, all the receipts, accounts and vouchers touching the same: It shall be the duty of another of the said auditor's, assisted by one clerk, to examine, state, settle, and audit all accounts, claims, or demands whatsoever against the public, arising under any law or resolution of the General Assembly, and to perform all the duties required by the act "For establishing a board of auditors for public accounts,"* or by any other

* See vol. 9,
pa. 536.

act or resolution of general assembly (except as hereafter is provided for) granting to every public claimant, authorized by law to demand the same, a warrant on the treasurer for the sum due, signed with his own hand and name, and attested in the hand and name of his clerk, making due entry and register of all his daily proceedings in books for that purpose, and carefully arranging, filing and preserving in his office, all accounts, receipts, vouchers, and papers touching the same: It shall be the duty of the remaining auditor, assisted by one clerk, to open a new set of public books, commencing on the first day of January, one thousand seven hundred and eighty-six, in which shall be stated a general account for every public fund created by the laws of appropriation, by way of debt and credit, shewing the annual product and application of each, and the balance thereof, on the last day of December in every year, to be transferred to new account; there shall be also stated an account against the treasurer of the commonwealth, with a general account of the revenue of the commonwealth, in which shall be entered the particular amount of all sums of money, or other things received by the said treasurer, or accruing to the revenue, and to which shall be allowed a credit for all warrants drawn on, or payments made out of any particular fund; a general account shall be also raised of the unfunded debt of the commonwealth, shewing the particular species and amount thereof; as also, particular accounts against the sheriffs, escheators, and clerks of the several counties, and other public collectors, and against all public debtors whatsoever, to the latter of which shall be transferred, all balances appearing due on the public books, either of the auditor's or solicitor's offices, on the first day of January, one thousand seven hundred and eighty-six.

III. *And be it further enacted,* That from and after the said first day of March, the business of the solicitor's office shall be regulated and conducted in the following manner, to wit: It shall be the duty of the said solicitor, assisted by one clerk, to proceed in the completion of the settlement of the account of this commonwealth with the United States, and to collect and arrange all the papers, vouchers and information respecting the same; the said solicitor, assisted as aforesaid, shall also proceed in execution of the duties prescrib-

Duties of Solicitor's office

ed by an act "For the more effectual collection of taxes and public dues," or of any other duty relating to his department, prescribed by any act or resolution of general assembly, corresponding the same to the changes hereby made in the auditor's office; and moreover shall call upon and proceed against all public debtors for the balances due to the public.

Duty of Treasurer.

IV. *And be it further enacted*, That from and after the said first day of March, the treasurer shall state on the books of his office, a general cash account with the commonwealth, shewing the amount of all monies actually received into the treasury, and on what account, whether funded or unfunded, and if the former, to what particular fund; also stating the expenditures and application of the same, and by what authority, preserving his vouchers in due order, and striking as well the general balance as the balance to each particular fund, where funded, once in every three months; and it shall not be lawful for the treasurer to pay away or dispose of any of the public money, without a warrant from the auditor authorized to issue the same, signed and attested in the manner before directed,

Executive to controul auditors, and solicitor's offices; with power to remove.

V. *And be it further enacted*, That from and after the said first day of March, the executive shall have the controul and superintendence of the auditor's and solicitor's offices respectively, as the same are now established by this act, with power to remove any auditor, or the solicitor, for misbehaviour or neglect of duty, and to supply any vacancy in the said offices, during the recess of assembly, subject to their approbation.

Committee of executive to examine offices of auditor and solicitor, and report to executive.

A committee of the executive, to be by them appointed, shall also have power, and are required, during the recess of the assembly, to visit and examine the said offices in their discretion, and shall report monthly to the executive, in writing, under their hands, the situation of the same, which report shall be entered in the proceedings of that board; and thereupon it shall be lawful for the executive to direct such correspondent changes in the business of the said offices as they shall deem necessary for the better conducting the same, according to the directions of this act, and as soon as the business assigned to the auditor and his clerk, appointed to bring up the deficiency in the public books is performed, to discharge them from the public service; they shall moreover dismiss all clerks from the said

Power of executive to direct changes in business of offices.

offices respectively, not provided for by this act; and as soon as the business of stating the account of this commonwealth with the United States, assigned to the solicitor, shall be performed, and it shall appear to them that the other duties of the solicitor may, without injury to the public, be transferred to the two remaining auditors and the treasurer, they shall have power, and are required so to do, and to discontinue the said solicitor's office.

To discharge auditor; and discontinue office of solicitor.

VI. *And be it further enacted*, That the executive be empowered and required to discontinue the two commissioners and their clerks, appointed to examine into "all impositions which have happened in the settlement of accounts of the officers and soldiers of the Virginia lines on continental or state establishments, including the navy, with the auditors, for arrearages of pay and depreciation;" and the business and power of the said commissioners shall henceforth be executed and discharged by the present assistant clerk of the council.

Executive to dismiss commissioners appointed to examine into impositions in passing public claims.

Their duties to be performed by assistant clerk of council.

VII. *And be it further enacted*, That the executive shall determine upon, and apportion among the auditors, the duties hereby severally assigned them.

Executive to apportion duties among auditors.

VIII. *Provided always, and be it further enacted*, That in case of the sickness or inability of the auditor appointed to audit public claims and issue warrants thereupon, it shall be lawful for the auditor appointed to direct the statement of the public books, and to keep an account with the treasurer, to transact his business, and grant warrants on the treasurer in like manner, and attested by the clerk of the other, as the said auditor of public claims might lawfully do, if present himself.

In case of sickness of one auditor, another to perform his duties.

IX. So much of every act and acts of assembly, as comes within the purview and meaning of this act, shall be, and the same is hereby repealed.

*An act for dividing the county of
Washington.*

BE it enacted by the General Assembly, That from
Washington and after the first day of May next, the county of
County divi- Washington shall be divided into two distinct counties,
County of Rus- that is to say: All that part of the said county lying
Act Enacted. within a line, to be run along the Clinch mountain to
the Carolina line; thence with that line to the Cumber-
land mountain, and the extent of country between the
Cumberland mountain, Clinch mountain, and the line
of Montgomery county, shall be one distinct county,
and called and known by the name of Russel; and the re-
sidue of the said county shall retain the name of Wash-
ington. A court for the said county of Russel, shall be
held by the justices thereof on the second Tuesday in
every month, after the said division shall take place, in
such manner as is by law provided for other coun-
ties, and shall be by their commissions directed. The
justices to be named in the commission of the peace for
the said county of Russel, shall meet at the house
of William Robinson, in Castles Wood in the said
county, on the first court day after the said division
takes place, and having taken the oath required by
law, and administered the oath of office to, and taken
bond of the sheriff, proceed to appoint and qualify
a clerk, and fix upon a place for holding courts in the
said county, at or as near the centre thereof as the situa-
tion and convenience will admit of; and shall thence-
forth proceed to erect the necessary public buildings at
such place, and until such buildings be completed, to
appoint any place for holding courts as they shall think
fit. *Provided always,* That the appointment of a place
for holding courts, and of a clerk, shall not be made
unless a majority of the justices be present; where such
majority shall have been prevented from attending by
bad weather, or their being at the time out of the county,
in such case the appointments aforesaid shall be post-
poned until some court day when such majority shall be
present. It shall be lawful for the governor, with ad-
vice of the council, to appoint a person to be first she-

* Erroneously numbered LXVI in the original.

riff of the said county, who shall continue in office during the term, and upon the same conditions, as is by law directed for other sheriffs. *Provided always,* That nothing herein contained shall be construed to hinder the sheriff of the said county of Washington from collecting and making distress for any public dues or officers fees, which shall remain unpaid by the inhabitants thereof at the time such division shall take place, but he shall collect, distrain, and account for the same in like manner as if this act had not been made. And the court of the said county of Washington shall have jurisdiction of all actions and suits, in law and equity, which shall be depending before them at the time the said division takes place, and try and determine the same, issue process, and award execution thereon. In all elections of a senator, the said county of Russel shall be of the same district as the said county of Washington.

CHAP. XLVII.*

An act for safe keeping the land papers of the Northern Neck in the register's office.

I. WHEREAS it is necessary and expedient that the records and papers upon which the titles to their lands of the citizens of this commonwealth depend, should be kept in the same office; and whereas it hath heretofore been customary to keep the records, documents, and entries of the lands within the district of the Northern Neck in the office of the late proprietor: Land papers of Northern Neck removed to Register's office.

II. *Be it enacted,* That in future all such records, documents, books, and papers, shall be in the keeping of the register of the land office in the city of Richmond, who is hereby appointed keeper of the same; and the executive shall, within three months from the passing Register appointed keeper of said records, &c.

* Erroneously numbered LXVII in original.

of this act, cause the said records, documents, books, and papers, to be safely removed from the said proprietary office into the office of the register, who shall give a receipt for the same, which receipt shall be lodged in the council chamber, and recorded in the council books. And the expences incurred by the said removal shall be paid out of the contingent fund.

Authenticated copies by register, evidence.

III. *And be it further enacted,* That every person having title or claim to any land or lands within the Northern Neck, shall, on application, be furnished with an authenticated copy of any record, document, or writing, by the register; and such authenticated copies shall be evidence in all courts of record in which the title or quit-rents of any of the said lands shall at any time be drawn into question. And whereas since the death of the late proprietor, the right honorable Thomas Lord Fairfax, no mode hath been adopted to enable those who had before his death made entries for waste and unappropriated lands in his office, nor to enable those who since his death have made entries within the said district, according to an act of assembly, intituled "An act concerning surveyors," to obtain titles for the same,

Grants, on surveys, founded on entries in the proprietor's office, to be issued by register.

IV. *Be it therefore enacted,* That where any surveys have been heretofore made, or hereafter shall be made under entries made in the life of the said proprietor, or under entries made with the surveyor of any county, under the act of assembly aforesaid, and which have been returned to the said proprietary office, or shall hereafter be returned to the register's office, the register shall make out grants therefor, to bear teste under the hand of the governor and the seal of this commonwealth, in the same manner as is by law directed in cases of other unappropriated lands; and the surveyors with whom such entries have been made, are hereby directed and empowered, to proceed to survey and record the same, and to make return of such surveys to the register's office, in the same manner, and within the same time, as is or shall be directed in cases of warrants issued for other unappropriated lands within this commonwealth, and thereupon grants shall issue in the manner herein before directed.

Unappropriated lands in Northern Neck, disposed.

V. *And be it further enacted,* That from and after the passing of this act, the unappropriated lands within the said district shall be subject to the same regula-

tions, and granted in the same manner, and all ca-
veats shall be proceeded upon, tried and determined,
as is by law directed in cases of other unappropriated
lands belonging to this commonwealth.

ed of as other
lands of the
common-
wealth.

VI. *And be it further enacted*, That upon grants is-
sued under this act, in consequence of entries hereto-
fore made, a composition after the rate of thirteen
shillings and four pence for every hundred acres, shall
be paid to the register, to be by him accounted for and
paid into the public treasury, in the same manner as
other monies by him received by virtue of his office;
and the surveyors within the said district shall for
their services be entitled to and receive the same fees
as other surveyors within this commonwealth for the
like services.

Composition
money, on
grants.

VII. *And be it further enacted*, That the land hold-
ers within the said district of the Northern Neck shall
be forever hereafter exonerated and discharged from
composition and quit-rents; any law, usage, or custom,
to the contrary notwithstanding.

Land holders
in Northern
Neck dis-
charged from
composition
and quit-
rents.

CHAP. XLVIII.*

*An act to revive the act, intituled An
act to empower the judges of the
General Court to superintend and
regulate the public jail.*

I. WHEREAS the act of assembly, passed in the
year one thousand seven hundred and seventy-nine,
intituled "An act to empower the judges of the gene-
ral court to superintend and regulate the public jail,"
will expire at the end of the present session of assem-
bly, and it is expedient and necessary that the same
should be continued:

Act empow-
ering judges
of general
court to su-
perintend &
regulate the
public jail re-
vived.

* Erroneously numbered LXVIII, in the original.

II. *Be it therefore enacted*, That the act, intituled "An act to empower the judges of the general court to superintend and regulate the public jail," shall be, and the same is hereby revived.

CHAP. XLIX.*

An act to add that part of the county of Yohogania, situate above Cross creek and between the western boundary of Pennsylvania and the river Ohio, to the county of Ohio.

Yohogania county being reduced too small, for a separate county, by the extension of the Pennsylvania line, is added to Ohio.

I. WHEREAS, by the extension of the western boundary between the state of Pennsylvania and this commonwealth, the greater part of the county of Yohogania has fallen within the limits of the former, whereby the remainder of the said county is rendered too small and inconsiderable for a separate county;

II. *Be it therefore enacted by the General Assembly*, That all that part of the county of Yohogania remaining within the limits of this commonwealth, shall be, and the same is hereby added to the county of Ohio.

* Erroneously numbered LXIX, in the original.

CHAP. L.

An act to repeal an act, intituled An act to provide for the more effectual collection of the tax of five shillings per hundred acres on lands granted by patent, and to appropriate the money arising therefrom.

See vol. 11,
p. 445.

I. WHEREAS the act passed the last session of assembly, intituled, "An act to provide for the more effectual collection of the tax of five shillings per hundred acres on lands granted by patent, and to appropriate the money arising therefrom," has been found partial in its operation: Acts imposing taxes on lands granted by patent repealed.

II. *Be it enacted*, That the said recited act, and so much of every other act or acts, as imposes the tax of five shillings per hundred acres on lands granted by patent, shall be, and the same is hereby repealed.

CHAP. LI.*

An act authorizing the treasurer to receive specie into the public treasury by weight.

BE it enacted, That from and after the passing of this act, the treasurer shall receive into the treasury, for taxes or otherwise (German gold excepted, which shall be received at four shillings and ten pence the pennyweight) all such coin as may be tendered in payment, according to its weight, whether the same may be under or over the weights established by law, at the rates fixed by an act of assembly, passed in the year one thousand seven hundred and eighty-two, intituled

Treasurer to
receive specie
by weight

* Erroneously numbered XL, in the original.

"An act to amend and reduce the several acts of assembly for ascertaining certain taxes and duties, and for establishing a permanent revenue, into one act," and that all sheriffs, collectors, and others authorized by law to receive monies of the citizens of this commonwealth, to be paid into the public treasury for taxes or otherwise, be directed to receive the same at the rates at which coin is hereby declared to be receivable at the treasury: *Provided nevertheless*, That this act shall continue, and be in force, until the end of the next session of assembly, and no longer.

CHAP. LII.

An act to amend an act, intituled, An act for clearing and improving the navigation of James river.

Preamble.

I. WHEREAS by the act, intituled "An act for clearing and improving the navigation of James river, it is among other things provided that the first subscriptions should not exceed the sum of one hundred thousand dollars, and that no toll should be demanded, except in a particular case, before the said river should be rendered capable of being navigated in dry seasons by vessels drawing one foot of water at the from the highest place praticable to the Great Falls; And whereas it hath been represented to the general assembly, that it may be necessary to extend the sum to be subscribed, and to put the depth of the canals in the discretion of the company, and the point to which the navigation is directed to reach, before the demand of the tolls, is by being too vague, a discouragement to adventurers:

James river
company may
extend the
shares; and
reduce depth
of canal.

II. *Be it therefore enacted by the General Assembly*, That it shall be lawful for the said company, at any general meeting, to extend the shares, so as not to exceed one hundred in addition to those already subscribed, and to proportion the depth of the water in the canals to the depth of the water in the river in dry seasons.

III. *And be it further enacted*, That Crow's ferry, Crow's ferry declared the highest point of navigation. at the mouth of Loony's creek, shall be forever taken and deemed to be the highest place practicable within the meaning of the above recited act. And whereas, it may be found expedient for the said company to borrow money to answer the purposes of their institution,

IV. *Be it further enacted*, That it shall be lawful for the president and directors to give an interest of six *per centum* upon all sums of money that shall be lent to them Company may borrow money. for the carrying on of the work.

CHAP. LIII.

An act to extend the operation of an act, intituled, An act concerning escheators, to the several counties in the Northern Neck.

I. WHEREAS the act of assembly, intituled "An act concerning escheators," does not in its operation extend to the counties in the Northern-neck, and it is necessary that escheators should be appointed in the several counties in that district: Escheators to be appointed in the Northern Neck.

II. *Be it therefore enacted*, That the aforesaid act of assembly shall be carried into execution, and be in full force in the several counties in the Northern-neck. And the court of each of the said counties is hereby required to recommend to the governor and council, some proper person to be commissioned escheator within such county, on or before first day of June next; and in case of the failure of such recommendation, it shall be lawful, and the governor is hereby required, to appoint and commission, as soon as may be, an escheator within each of the said counties, who shall be a resident of such county.

CHAP. LIV.*

*An act for dividing the county of
Lincoln into three distinct counties.*

Lincoln county divided, & Mercer and Madison formed.

Boundaries.

Court days.

I. *BE* it enacted by the General Assembly, That from and after the first day of August next, the county of Lincoln shall be divided into three distinct counties, that is to say: So much of the said county bounded by a line beginning at the confluence of Sugar-creek and Kentucky river; thence a direct line to the mouth of Clark's run; thence a straight line to Wilson's Station, in the fork of Clark's run; thence the same course continued to the line of Nelson county; thence with the said line to the line of Jefferson county; thence with that line to Kentucky river; thence up the said river to the beginning, shall be one distinct county, and called and known by the name of Mercer; that such further parts of the said county, within the following lines, to wit, beginning at the confluence of Kentucky river and Sugar-creek, thence up the said creek to the fork James Thompson lives on; thence up the said fork to the head thereof; thence a straight line to where an east course from John Ellis's will intersect the top of the Ridge that divides the waters of Paint-Lick from the waters of Dick's river; thence along the top of the said Ridge southwardly, opposite to Hickman's Lick; thence south forty-five degrees east to the main Rock-Castle river; thence up the said river to the head thereof; thence with the Ridge that divides the waters of Kentucky river from the waters of Cumberland river, to the line of Washington county; thence along the said line to the main fork of Kentucky river that divides the county of Fayette from the county of Lincoln; thence down the said river to the beginning, shall be one other distinct county, and called and known by the name of Madison; and all the residue of the said county shall retain the name of Lincoln. A court for the said county of Mercer shall be held by the justices thereof on the first Tuesday in every month, and also, a court for the said county of Madison shall be held by the justices thereof on the fourth Tuesday in every month, after the said

* Erroneously numbered XLIV, in the original.

division shall take place, in such manner as is by law provided for other counties, and shall be by their commissions respectively directed. The justices to be named in the commission of the peace for the said county of Mercer, shall meet at Harrodsburg, in the said county, and the justices to be named in the commission of the peace for the said county of Madison, shall meet at the house of George Adams, in the said county, upon their respective court-days, after the said division shall take place; and having taken the oaths prescribed by law, and administered the oath of office to, and taken bond of the respective sheriffs, according to law, proceed to appoint each a clerk, and fix upon a place for holding courts in each of the said counties, at or as near the centre thereof as the situation and convenience will admit; and thenceforth each of the said courts shall proceed to erect the necessary public buildings at such place, and until such buildings be completed, to appoint any place for holding courts as they shall respectively think proper. *Provided always,* That the appointment of a place for holding courts, and of a clerk, shall not be made unless a majority of the justices of each of the said counties be present; where such majority shall have been prevented from attending by bad weather, or their being at the time out of the county, in such cases the appointment shall be postponed until some court day when a majority shall be present. The governor with advice of the council, shall appoint a person to be first sheriff of each of the said counties, who shall continue in office during the term, and upon the same conditions, as is by law appointed for other sheriffs. It shall be lawful for the sheriff of the said county of Lincoln to collect and make distress for any public dues or officers fees, which remain unpaid by the inhabitants thereof at the time such division shall take place, and shall be accountable for the same, in like manner as if this act had not been made. And that the court of the said county of Lincoln, shall have jurisdiction of all actions and suits, in law and equity, depending before them at the time of the said division, and shall try and determine the same, and issue process, and award execution thereon. In all elections of a senator, the said counties of Mercer and Madison shall be of the same district with the said county of Lincoln.

II. *And be it further enacted*, That all principal surveyors heretofore appointed, or hereafter to be appointed, shall, and they are hereby authorized, to demand and receive all entries, warrants, and certificates, from the principal surveyors of the old county which may not have been surveyed when the county was divided, and which may, on the division, fall within the limits of the new counties.

CHAP. LV.

From Rev.
Bills of 1779,
ch. II.

An act concerning election of members of general assembly.

Delegates and
senators when
to be elected.

I. *BE it enacted by the General Assembly*, That the delegates for the several counties, and the city of Williamsburg and borough of Norfolk, and the six senators for one of the four classes of districts, in the room of those who will annually be displaced, shall be chosen, in the manner hereafter directed, in the month of April in every year, on the court days of each respective county or corporation, and shall meet together, and with the remaining senators, on the third Monday of October then next following, in general assembly, at the place the last preceding general assembly shall have sat in, or adjourned to, unless such place be in possession of a public enemy, or infected with the plague or small-pox, in which case they shall meet at such other place as the governor, with the advice of the council shall appoint, and notify by proclamation.

When assembly
to meet.

Right of suffrage.

II. Every male citizen (other than free negroes or mulattoes) of this commonwealth, aged twenty-one years, or such as have refused to give assurance of fidelity to the commonwealth, being possessed, or whose tenant for years, at will, or at sufferance, is possessed of twenty-five acres of land, with a house, the superficial content of the foundation whereof is twelve feet square, or equal to that quantity, and a plantation thereon, or fifty acres of unimproved land, or a lot or part of a lot of land in a city or town established by

act of general assembly with a house thereon, of the like superficial content or quantity, having in such land an estate of freehold at the least, and, unless the title shall have come to him by descent, devise, marriage, or marriage-settlement, having been so possessed six months, and no other person shall be qualified to vote for delegates to serve in general assembly, for the county, city, or borough respectively, in which the land lieth. If the fifty acres of land being one entire parcel, lie in several counties, the holders shall vote in that county wherein the greater part of the land lieth only; and if the twenty-five acres of land, being one entire parcel, be in several counties, the holder shall vote in that county wherein the house standeth only. In right of land holden by parceners, joint-tenants, or tenants in common, but one vote shall be given by all the holders capable of voting, who shall be present, and agree to vote for the same candidate or candidates, unless the quantity of land, in case partition had been made thereof, be sufficient to entitle every holder present to vote separately, or unless some one or more of the holders may lawfully vote in right of another estate or estates in the same county, in which case the others may vote, if holding solely, they might have voted.

Qualifications
of electors in
Williamsburg
and Norfolk.

III. Every person having such a freehold in the city of Williamsburg or borough of Norfolk, as will qualify him to vote for delegates to represent the county, and also every freeman, except as before excepted, aged twenty one years, being a citizen of the commonwealth, and not having refused to give assurance of fidelity, who shall be a house keeper, and shall have resided for six months in the said city or borough, and shall be possessed of a visible estate of the value of fifty pounds at least, or shall actually have served as an apprentice to some trade within the said city or borough for the term of five years, and shall have obtained a certificate of such service from the court of Hustings, under the common seal of the city or borough, and no other, shall be qualified to vote for a delegate to represent the said city or borough respectively in general assembly. Every person qualified as aforesaid to vote for delegates, shall be capable of being elected a delegate for the county, city, or borough, or senator for the

Who may be
elected.

Who not com-
pellable to
serve.

Penalty on e-
lectors failing
to vote.

How disco-
vered & pro-
secuted.

Electors pri-
vileged from
arrests.

Polls, how
taken.

district in which he resides. No person who shall have served as a member of the legislature for seven years in the whole, shall be afterwards compellable to serve therein. Any elector qualified according to this act, failing to attend any annual election of delegates or of a senator, and, if a poll be taken, to give or offer to give his vote, shall pay one fourth of his portion of all such levies and taxes as shall be assessed and levied in his county the ensuing year: And for discovering such defaulters, the sheriff or other officer taking the poll, shall with ten days after the said election, deliver to the clerk of the county or corporation court, as the case may be, a copy of the poll by him taken, to be kept in his office, who shall suffer any candidate or elector to take a copy thereof, and the said clerk is hereby directed to cause a copy of the same to be delivered to the next grand-jury to be sworn for the county or corporation, who shall be charged by the presiding magistrate to make presentment of all such persons qualified to vote residing in the said county or corporation, who shall have failed to have given their votes at the said election agreeable to law. And for the better information of the said jury, the sheriff of the county is hereby commanded, under the penalty of fifty pounds, to be recovered and appropriated as the penalties for other neglects of his duty, to lay before them a list of all the land-holders resident therein. Every elector, going to, abiding at, and returning from an election, shall be privileged from arrests one day for every twenty miles he shall necessarily travel, exclusive of the day of election; and any process against such elector, executed during such privilege, shall be void. Upon the election of a senator, and also of a delegate, or delegates, when the election of such delegate or delegates cannot be determined by view, the sheriff, or in his absence the under sheriff of the county, or the mayor of the city or borough, shall in presence of the candidates, or their agents, cause the poll to be taken in the court-house, or if that be in a town infected with any contagious disease, or be in danger of an attack from a public enemy, at some other place according to these directions: He shall appoint such and so many writers as he shall think fit, who shall respectively take an oath, to be administered by him, or make solemn affirmation that they

will take the poll faithfully and impartially: He shall deliver a poll-book to each writer, who by ruling lines thereon, having made as many columns as there shall be candidates, shall enter the name of each candidate in a distinct column at the head thereof, and under his name in the same column the name of every elector, who shall vote for that candidate; and after the names of all the electors who will give their votes (proclamation having been made three times at the door of the court-house, or other place of holding such election, by the officer requiring those who had not been polled, to come in and give their votes) shall have been thus entered, he shall conclude the poll, and declare the candidates for whom the greatest number of votes shall appear to have been given to be elected; or if the greatest number of votes for several candidates shall be equal with one another, he may declare which of the candidates he will elect. If the number of votes for several persons to be a senator be equal, and the votes of the returning officers be equal also, it shall be decided by a lot taken by the said returning officers at their meeting, which shall be within twenty days after the last day of election, at such place as shall be appointed by the returning officer of the first county in which such election shall be, who is hereby commanded forthwith to give notice to the returning officers. No elector shall be admitted to poll a second time, at one and the same election, although at the first time he shall have given but a single vote. If the electors who appear, be so numerous that they cannot all be polled before sun-setting: or if by rain or rise of water-courses, many of the electors may have been hindered from attending, the sheriff, or under sheriff, may by request of any one or more of the candidates, or their agents, adjourn the proceeding on the poll until the next day, and so from day to day for four days (Sundays excluded) if the same cause continue, giving public notice thereof by proclamation at the door of the court-house, or other place of holding such elections, and shall on the last day of the election conclude the poll according to the directions aforesaid. On complaint to either house of assembly of an undue election, or return of any member to their house, such house shall forthwith appoint some day for trying the same, as shortly as shall be consistent with fair enquiry, but not

Mode of deciding where candidates equal.

Meeting of returning officers for senate.

No elector to vote twice.

When polls may be kept open.

Contested elections, how tried.

within less than fourteen days after such complaint lodged, whereof notice shall be given by the speaker to the party against whom the complaint is, if he be absent; which day of trial may be lengthened from time to time, on good cause shewn to the house, and notice to the absent party. On the day appointed for the trial, the committee of privileges and elections shall proceed on the said disputed election, and report to the house of which they are members, their opinion thereon, before they proceed to any other business, and the said house shall, on receipt of the said report, immediately proceed to determine thereon, and either confirm or disagree to such report, as to them shall seem just. If any person sworn before the said committee, shall give, or withhold, any evidence under such circumstances as would have constituted the same to be perjury, if done in presence of a court of record, the same shall be deemed perjury.

If, on scrutiny, votes equal, how decided.

IV. If upon any such trial it shall appear that equal numbers of qualified electors shall have voted for the petitioner and the sitting member, and the officer who conducted the election shall swear or solemnly affirm that if such equality had appeared at the election, he would have declared the petitioner elected; such petitioner shall be deemed duly elected; and his name instead of the name of the sitting member, which shall be erased, shall be inserted in the certificate or return. No elector shall be polled before he shall have declared, if required to do so by any candidate or his agent, in what right he offers to vote, and shall have taken an oath, which the officer conducting the election shall administer, or make a solemn affirmation in this form: "I do swear (or do solemnly affirm) that I do in my conscience believe myself to be duly qualified to vote for delegates to serve in general assembly for the county of _____, according to the act of general assembly, intituled An act _____," of which oath or affirmation a note shall be made in the poll-book opposite, and referring to the name of the person swearing or affirming.

Oath of electors.

Name of electors refusing such oath to be entered separately.

V. The making such oath or affirmation falsely, shall be perjury. The names of electors offering to be polled, but refusing to make such oath or affirmation, shall be entered on the poll-books in separate lists, with

the names of the candidates for whom they voted, and shall be added to the poll, if, upon a scrutiny the votes be justified.

VI. The sheriff or under sheriff shall certify the election of delegates in this form, or to this effect: "Be it known to all to whom these presents shall come, that I ^{Form of certificate of election of delegate.} , sheriff (or deputy of , sheriff) of the county of , in my full county, held at the court-house thereof (or at) on the day of , in the year of our Lord , by the electors of my said county, qualified according to law, caused to be chosen two delegates for my said county, namely and to represent the same in general assembly. Given under my hand and seal, the day and year aforesaid."

VII. The mayor of a city or borough entitled to particular representation, shall certify the election of a delegate in this form, or to this effect: "Be it known to all to whom these presents shall come, that I mayor of the city (or borough) of at the court-house of (or at) in the said city, (or borough) on the day of , in the year of our Lord , by the electors of the said city (or borough) qualified according to law, caused to be chosen a delegate for the said city (or borough) namely, to represent the same in general assembly. Given under my hand and seal, the day and year aforesaid." ^{For a city or borough.}

VIII. The sheriffs, or under sheriffs of the several ^{For a senator} counties of a district, shall certify the election of a senator in this form or to this effect: "Be it known to all to whom these presents shall come, that we sheriff (or , deputy of , sheriff) of the county of ; sheriff (or deputy of , sheriff) of the county of and , sheriff (or , deputy of , sheriff) of the county of , in our full counties held at the court houses thereof (or at) respectively; on the day of , in the year of our Lord, , by the electors of our said respective counties, qualified according to law, caused to be chosen a senator for the district composed of the said counties, namely, , to represent the same in general assembly. Given under our hands and seals, the day and year aforesaid."

Returns of
elections,
when to be
made.

Elections to
supply vacan-
cies.

Certificate,
on such elec-
tion.

IX. The officers directed to make such certificates of elections as aforesaid, shall cause them to be delivered, those of delegates, to the clerk of the house of delegates, and those of senators, to the clerk of the senate, one day at least before the succeeding session of general assembly. For election of a delegate or senator, when a vacancy shall happen, a writ or writs shall be issued by the speaker of that house whereof he was a member, but if the vacancy be occasioned by acceptance of an office, the writ or writs shall not be issued, without the special order of the house; and the officer to whom such writ shall be directed, so soon after the receipt thereof as he may be able, shall give the electors notice thereof as well as of the time and place of election, by advertisement to be affixed at four of the most convenient places in the county, and shall cause the election to be made in the manner herein before prescribed, and shall have the same power of adjourning the proceeding upon the poll, as in case of a general election. The return of such writ for electing a delegate or delegates, shall be in this form, or to this effect: Upon the writ shall be endorsed these, or the like words: "The execution of this writ appears in a schedule hereunto annexed;" and on another paper annexed to the writ shall be written, if the writ be for the election of a delegate for a county, these or the-like words, "By virtue of this writ to me directed, in my full county held at the courthouse thereof (or at ———) on the ——— day of ———, in the year of our lord, ———, by the electors of my said county, qualified according to law, I caused to be chosen a delegate (or two delegates) for my said county, namely, ———, to represent the same in general assembly. Given under my hand and seal, the day and year aforesaid." And if the writ be for the election of a delegate for a city or borough, these, or the like words, "By virtue of this writ to me directed, at the court-house of the city of ——— (or borough of ———, or at ———, in the borough of ———) on the ——— day of ———, in the year of our Lord, ———, by the electors of the said city (or borough) qualified according to law, I caused to be chosen a delegate for the said city (or borough) namely, ———, to represent the same in general assembly. Given under my hand and seal, the day and year aforesaid;" and the return of

the writ for electing a senator shall be in this form, or to this effect: Upon each writ shall be endorsed, these, or the like words, "The execution of this writ appears in a schedule hereunto annexed;" and on another paper connecting the several writs together, shall be written these, or the like words, "By virtue of these writs to us directed, in our full counties, held at the court-houses thereof respectively (or at ———) on the ——— day of ———, in the year of our Lord, ———, by the electors of our said respective counties, qualified according to law, we caused to be chosen a senator for the district composed of our said counties, namely, ———, to represent the same in general assembly. Given under our hands and seals, the day and year aforesaid."

K. And the officers conducting the elections, shall make their said returns to the general assembly, if it be sitting, immediately, or if it be not sitting, one day at least before the time to which the writ shall be returnable. A sheriff, under sheriff, or mayor, refusing to take the poll when he shall be required by a candidate, or elector, or taking it in other manner than is herein before prescribed, or making a false certificate or return of the election of a member or members to serve in the general assembly, or neglecting to cause the certificate or return of such election to be made to such clerk, and at or before such time as is herein before directed, shall forfeit and pay one hundred pounds; and neglecting to deliver the poll-books to the clerk of the court, to whom, and before the expiration of the time within which they are herein before directed to be delivered, or refusing to suffer any candidate or elector, at his own expence, to take a copy of the poll-books, shall forfeit and pay fifty pounds; which penalties may be recovered with costs in actions of debt, by any person who will sue for the same, one half to his own use, and the other half to the use of the commonwealth. Any person hereafter to be elected to serve in the general assembly, who shall directly or indirectly give or agree to give any elector or pretended elector, money, meat, drink, or other reward, in order to be elected, or for having been elected, for such, or any other county, city, or borough, shall be expelled and disabled to be re-elected during the term of three years.

Returns.

Penalties on sheriffs, for breach of duty.

Bribery at elections.

XI. The privilege of members of the general assembly shall continue during every session, and one day

Privilege of members.

before and after for every twenty miles they must necessarily travel to, and from home, and in the mean time process in which they are parties shall be suspended, without abatement or discontinuance; if any person taken in execution, be delivered by privilege of either house of general assembly, so soon as such privilege ceaseth, he shall return himself a prisoner in execution or be liable to an escape.

Consequence if a sufficient number of members, to form a house, fail to meet.

Members absent, without leave.

Adjournment

XII. If a sufficient number of the members of general assembly, or of either house thereof, to adjourn from day to day, shall not meet at any time when they ought, the governor, by proclamation, with advice of the council, may prorogue the general assembly, or adjourn the deficient house, from day to day, until a sufficient number shall convene, and their acts and proceedings afterwards shall be as valid as if there had been no such interruption. But a delegate or senator shall lose all the wages he would otherwise have been entitled to, if he shall depart from the general assembly before it be adjourned, without licence from the speaker and other members of the house whereof he is a member, first entered on the journal; yet any member of either house taken so sick during his attendance in general assembly, or in his journey thither, as that he shall be unable to come to or sit in the house, shall receive wages for every day of the session he shall be so disabled, in the same manner as if he had sat in the house. If on the day appointed for the meeting of any general assembly, or at any time during the session, a sufficient number of the members thereof, to proceed to business, do not attend for that purpose, every absent delegate or senator, shall, besides losing his wages during absence, forfeit and pay to the use of this commonwealth ten pounds; such forfeiture to be recovered by prosecution to be instituted in the general court by order of such house, and on the trial of such prosecution, no excuse for non-attendance, other than those before-mentioned, shall be admitted by the jury; and if it be alledged that the defendant did attend such house, on any of the days during which they could not do business for want of members, the proof of such attendance shall rest on him. The general assembly may during a session, or at the end thereof adjourn to any other place than that where they shall then be sitting. Every act of the general assembly hereafter to be made,

shall commence and be in force from the passing thereof, unless in the act itself another day for the commencement thereof be particularly mentioned, and in the former case the day of passing thereof shall be noted next after the title.

When acts to commence.

XII. This act shall commence and be in force from and after the first day of January, one thousand seven hundred and eighty seven.

Commencement of this act.

CHAP. LVI.

An act empowering one of the privy-council, to officiate in certain cases as lieutenant-governor.

From Rev. Bills of 1779, ch. III.

BE it enacted by the General Assembly, That if the governor and president of the privy council shall die, or otherwise become unable to perform his duty, in the recess of the general assembly, the privy councillor whose name stands next in the list of their appointments, shall officiate as lieutenant-governor, until the vacancy be supplied, or the disability cease. And in the absence of the governor, such intended absence having been previously notified to them by him, and entered on their journals, or in the like absence of the president, and upon the like notification, if any business to be transacted at the council board necessarily require dispatch before he can attend it, the council may proceed without him; and in either case the act shall be as valid as if he had been present. This act shall commence and be in force from and after the first day of January, one thousand seven hundred and eighty-seven

When one of the privy council, may act as lieutenant governor.

CHAP. LVII.

From Rev.
Bills of 1779,
ch. XII.

An act concerning the public treasurer.

Treasurer,
how long to
continue in
office.

Bond and se-
curity.

Oath.

Vacancy, how
supplied.

Kennedy a-
gainst.

Duty of trea-
surer.

BE it enacted by the General Assembly, That the public treasurer may continue in office without re-election, until the end of the session of general assembly next after one year from the time of his appointment shall have expired. On his first election, before he shall have power to act, he shall give bond to the governor, with sureties to be approved by the council of state, in the penalty of four hundred thousand pounds, payable to the commonwealth, with condition that he will faithfully account for all monies and other things, which shall come to his hands in virtue of his office, and perform all other duties thereof; and shall take an oath to the same purpose, and give assurance of fidelity to the commonwealth, before some court of record, or before a judge or a justice thereof, the administration of which oaths, or the certificate thereof, shall be recorded in such court. When the office shall become vacant, during the recess of the general assembly, the governor with advice of the council of state, shall appoint a successor, to act until such time as he or another shall be legally elected. Upon a motion made to the general court, by a succeeding treasurer, on behalf of the commonwealth, whereof more than ten days notice in writing shall have been given to the obligors, judgment may be awarded for the penalty of the said bond, to be discharged by payment of so much as a jury, to be impanelled instantly, for trial of the issue, if an issue be joined, or to enquire of damages, if the defendants make default, shall find to be due by breach of the condition aforesaid, with costs. The treasurer, in books, provided at public expence, shall state the accounts of money by him received for public taxes and impositions, and paid in pursuance of acts and votes of general assembly, in such a manner as that the nett produce of the whole revenue, as well as of every branch thereof, and the amount of disbursements in discharge of the several demands, may distinctly appear, and lay the said accounts from time to time, and all his other

transactions, before the general assembly. And if he divert or misapply any of the public treasure, being convicted thereof, upon such prosecution as is before prescribed, he shall not only be adjudged to pay double the money so found to have been diverted or misapplied, to the use of the commonwealth, but shall thereby be rendered incapable of any office of public trust. This act shall commence and be in force from and after the first day of January, one thousand seven hundred and eighty-seven,

Penalty for misapplying public monies.

Commencement of this act.

CHAP. LVIII.

An act for the appointment of clerks to the governor and council.

From Rev. Bills of 1779, ch. XIV.

BE it enacted by the General Assembly, That the governor and council shall have power to appoint, from time to time as they shall be wanting, a drawing clerk, a copying clerk, and a clerk of foreign correspondence, who shall each of them take an oath, to be administered by any member of the board, to keep secret all such matters as they shall direct them to keep secret; which clerks shall be removable at their will. This act shall commence and be in force from and after the first day of January, one thousand seven hundred and eighty-seven.

What clerks may be appointed by governor and council.

CHAP. LIX.

An act concerning Seamen.

1. BE it enacted by the General Assembly, That every seamen, whose habitation is within this commonwealth, not less than eighteen nor more than fifty years

From Rev. Bills of 1779, ch. XVII
Seamen to be registered.

Promotion in
the navy.

Pensions.

Fund for pen-
sions, raised
by monthly
contributions
of seamen.

old, capable of sea service, and willing to serve in the ships or vessels of the commonwealth, may give in a ticket, containing his christian-name, sur-name, and proper addition, with his age, and the place of his habitation, and the time when the ticket shall be delivered to any naval-officer, who shall transmit it to the executive, to be by them entered in a register. Promotion to commission and warrant officers in the navy becoming vacant, shall be made and adjusted according to the order following: Seamen registered and actually serving, shall be preferred to all others, and of the former, those who shall have served a longer to such as shall have served a shorter time; and if the times of service shall have been equal, they whose tickets shall be of prior to those whose tickets shall be of posterior dates; and if the merits of the competitors shall be equal, in those respects the preference shall be decided by lot. Every registered seaman, actually serving in the navy, disabled by age or wounds, so as that he can be no longer useful there, and not being in a condition to maintain himself comfortably, nor having been promoted to any commission or warrant office, or to the office of master, mate, boatswain, gunner, carpenter, purser, or surgeon, obtaining a certificate thereof from the captain, master, and surgeon of the ship or vessel, on board of which he had served, under their hands and seals, shall receive from the treasurer the sum of fifteen pounds every year during his life; and the widow of every registered seaman, serving on board of a ship or vessel of war, slain or drowned in the service, if he was not in such a condition, and had not been promoted to such office as aforesaid, obtaining the like certificate thereof, shall receive from the treasurer the sum of eight pounds every year during her life. But a registered seaman, withdrawing himself from the service of the commonwealth, in the time of actual war, and not repairing on board one of the ships or vessels thereof, within thirty days after he shall have been required so to do, by any officer of the navy, unless detained by sickness, to be proved by the oaths of two witnesses, shall have no benefit by this act. And out of the wages due, or becoming due, to every seaman serving on board a ship or vessel belonging to the commonwealth, or any citizen thereof, and used in sea voyages, six pence per month shall be paid by the com-

mander thereof, if she be a ship or vessel of war, public or private, to the treasurer, or if she be a mercantile ship or vessel, to the naval officer of the port where she shall be entered inward, or cleared outward, who shall discover the number, wages, and time of service of all persons belonging to the ship or vessel, by examining the commander of her, upon oath or affirmation, and account for what he shall receive to the treasurer; and the money so to be collected, shall be applied towards reimbursing the annuities to disabled registered seamen, and to the widows of those who shall be slain or drowned in the public service.

Boys, of the age of ten years or upwards, who shall beg for alms, or who, or whose parents are, or shall be chargeable to any county, may, by the court of the county wherein they inhabit, be bound apprentices by indentures, to owners or masters of ships or vessels used in sea voyages, and belonging to any ports within this commonwealth, until they shall attain to the ages of twenty-one years respectively; in every one of which indentures the age of the boy to be ascertained by the register of births, or, not being entered therein, by the adjudication of the court, shall be inserted, with a covenant on the part of the master, that he will provide sufficient food, and convenient raiment and lodging for his apprentice, and employ him in the sea service, and in such offices as appertain thereto, and moreover, deliver to him a suit of clothes suitable to the season, to wit, a coat, waistcoat, pair of breeches, two pair of stockings, a pair of shoes, and a hat, with a blanket. And every owner or master of a ship or vessel, used in sea voyages, and belonging to a port within this commonwealth, shall be obliged to take one of such apprentices, not being under thirteen or above seventeen years of age, nor being deficient in health and strength of body, if the ship or vessel be of the burthen of thirty and not more than fifty tons; another for the next fifty tons of her burthen, and one more for every hundred her burthen shall exceed one hundred tons; and refusing so to do, if he shall be required, unless he shall have an equal number of other apprentices, shall forfeit ten pounds, to be recovered with costs, in an action of debt, by him who will sue, one half to his own use, and the other half to the use of the county wherein the boy shall inhabit. The apprentice so bound shall be clothed,

Apprentices
to the sea
service, how
bound.

Reciprocal
duties of mas-
ter & appren-
tice.

if it be necessary, and conveyed to the port his master shall belong to, at the expence of the county from which he shall be sent. The clerks of the courts shall transmit the names of the masters and apprentices, with the ages of the latter, and the times when they shall be bound, to the executive, to be entered by them in their register; and the apprentices, after they shall have been eighteen years old, shall be deemed registered seamen, entitled to the benefit of this act, in like manner as if they had voluntarily given in tickets. The county court nearest to a port in which an apprentice bound by virtue of this act, or otherwise, shall serve, or ought to serve on board of a ship or vessel, shall, at any time when they shall be sitting, receive and hear a complaint made to them by him of hard or ill usage, or breach of covenant, and redress the complaint, if he shall appear to have justly complained, prescribing milder or better treatment for the future, ordering an action to be commenced against the master, or removing the apprentice and binding him to another master, as it may seem right and expedient. Any justice may, by warrant under his hand and seal, cause any able-bodied man, who not having wherewithall to maintain himself, shall be found loitering, and shall leave a wife or children, without means for their subsistence, whereby they may become burthensome to their county, or shall wander abroad, without betaking himself to some honest employment, or shall go about begging, to be apprehended and brought before him, and if he shall, upon examination of himself, or by the testimony of others, appear to be within this description, the justice, by his warrant, may cause such vagrant to be sent and delivered on board any ship of war or other vessel belonging to the commonwealth, there to serve as a seaman during the term of eighteen months.—

Apprentices to be registered. An agreement in writing shall be made between the master or commander and seamen, not being his apprentices, of every ship or vessel, belonging to any port of the commonwealth, and bound to parts beyond sea, and be signed by both parties, and by the seamen within three days after they shall have shipped and entered themselves respectively, declaring the voyage to be performed, and ascertaining the wages, either by the month or for the run, to be paid to every seaman; and any such master or commander proceeding on the

Complaints of apprentices, how redressed.

Vagrant seamen, may be apprehended

Written agreements between master and seamen, for every voyage.

voyage before that agreement shall be made and signed, shall forfeit the sum of five pounds for every seaman who shall not have signed it, carried out in the vessel, to be recovered with costs, by information, and to be paid to the treasurer for the same purpose as the sixpence per month out of the wages of seamen. Any seaman who shall have signed such agreement, absenting himself from the ship or vessel, without leave of the master or other officer having charge of her, shall forfeit for every day's absence the pay of two days, and refusing to proceed on the voyage, or deserting from the ship or vessel, shall forfeit the wages then due.—

Seamen abs-
senting them-
selves, how
apprehended

But seamen shall not be deprived by the agreement of any remedy for their wages, which they might have lawfully pursued before this act; and in any suit between them and the master, it shall be incumbent upon him to exhibit the agreement, if it shall be requisite, and they shall not lose or suffer any thing by his suppression of it, or failure to produce it. The master or commander of any such ship or vessel, arriving from beyond the sea into a port of the commonwealth, shall, within thirty days after she shall be entered at the naval office, unless there shall have been a covenant to the contrary, or at the time of discharging the seamen, which ever shall first happen, pay the wages due to every seaman, if he shall demand them, after deducting what may, by virtue of this act, be withheld, or refusing so to do, shall pay to him, over and above the wages detained, the further sum of twenty shillings, to be recovered with the other demand. A seaman who

Wages, when
to be paid.

shall belong to a ship or vessel, travelling by land or water, and having no certificate of his discharge, signed by the master or commander, or a pass or order with the like signature, or that of some other officer of the ship or vessel, unless he shall be going to a proper place to seek redress of any grievance, shall be deemed a deserter, and may be apprehended by any person, and brought before a justice of the peace, and shall be by his warrant returned, through the hands of constables, one taking him from another, and conveying him to the next; and for this service the master or commander, if the seamen shall not have been discharged, shall pay to the person who shall apprehend him, ten shillings, and to the constables, one shilling for every mile they shall conduct him, and to be proportioned

Seaman with-
out a dis-
charge, de-
clared a de-
serter.

How appre-
hended.

amongst them by the number of miles they shall respectively go, in the most direct way, to ascertain which, a certificate of the whole distance from the place where he was apprehended to the port the ship or vessel shall be at, shall be endorsed by the justice of the peace on his warrant; and if the master or commander shall refuse to pay the money to the persons entitled to it, or to others authorized by their orders to receive it, the naval officer of the port with whom the warrant and orders shall be left, shall not clear the ship or vessel out before it shall be paid to him for their use, unless the master or commander shall make it appear, by the oath of himself, or of some other on board, that the seaman had not been returned, or had been discharged before he was apprehended; and the master or commander paying the money may deduct it out of the wages becoming due to the seaman. A constable wilfully or negligently suffering a seamen, not being discharged from his ship or vessel, who shall have been committed by warrant of a justice of the peace to his custody, to escape, unless he shall recover him, and proceed to deliver him as the warrant required, shall, upon complaint made to a justice of the peace, which he shall be summoned to answer, pay the reward due to the person who apprehended the seaman, and to the constables by whom he had before been conducted, and shall moreover pay the sum of five pounds to the master or commander of the ship or vessel, to be recovered with costs, by petition to the county, city, or borough court. A person concealing a deserted seaman, shall pay the sum of three pounds to the master or commander of the ship or vessel to which he shall belong, to be recovered with costs. The master or commander of a ship or vessel, who shall entertain, employ, or hire a seaman, belonging to a ship or vessel owned by a citizen of the commonwealth, before he shall have been discharged, shall pay to the owner the sum of twenty pounds, to be recovered with costs, by action of debt. Two justices of the peace may hear a complaint made to them of any mutinous or refractory behaviour in a seaman or waterman, and causing the parties to appear before them at a convenient time, in some place near the ship or vessel they shall belong to, with their witnesses, may adjudge the accused, if he shall be proved to have stricken, or to have offered to

Penalty for
concealing
deserted sea-
men.

Mutinous and
refractory
conduct in
seamen.

strike the master or other superior officer, or to have threatened to do any bodily hurt to him, or to have peremptorily refused, without just cause, to obey his commands, to forfeit to the owner such part of the wages due to the seaman or waterman as will make reasonable amends for the injury and damage, not exceeding the sum of five pounds, and if satisfaction cannot be obtained by other means, may award execution for the amount of the forfeiture, or so much thereof as shall exceed the wages due, against his goods and chattels. But seamen or watermen shall not be obliged to serve on board any ship or vessel if such sufficient wholesome victuals and drink, and convenient accommodations, as are customary in the merchant service, shall not be provided for and allowed to them. A master who shall correct immoderately, or maim a seaman under his command, may be brought before any justice of the peace by his warrant, and be compelled to give security for his good behaviour, and shall moreover be liable to the action of the party injured for damages. The master or commander of a ship or vessel, who shall put and leave on shore any sick or disabled seaman, not entitled to his discharge by their contract, without providing for his cure and maintenance, shall forfeit twenty pounds, to be recovered with costs, by action of debt, one half to him who will sue, to his own use, and the other half to the use of the county in which the seaman shall be left, and applied towards his cure and maintenance. The master or commander of a ship or vessel, discharging a seaman from his service, shall sign and deliver to him a certificate thereof, and refusing so to do, when it shall be required, shall pay the sum of five pounds to the seaman, to be recovered with costs, by action of debt.—This act shall commence and be in force from and after the first day of January, one thousand seven hundred and eighty-seven.

Accommodations.

Immoderate correction.

●

 Penalty for putting sick or disabled seamen on shore, without providing for them.

Certificate of discharge.

CHAP. LX.

From Rev.
Bills of 1779,
ch. XX.

An act directing the course of descents.

Descents,
course of.

I. *Be it enacted by the General Assembly, That* henceforth when any person having title to any real estate of inheritance, shall die intestate as to such estate, it shall descend and pass in parency to his kindred male and female in the following course, that is to say:

II. To his children or their descendants, if any there be:

III. If there be no children nor their descendants, then to his father.

IV. If there be no father, then to his mother, brothers and sisters; and their descendants, or such of them as there be:

V. If there be no mother, nor brother, nor sister, nor their descendants, then the inheritance shall be divided into two moieties, one of which shall go to the paternal, the other to the maternal kindred, in the following course, that is to say:

VI. First to the grandfather:

VII. If there be no grandfather, then to the grandmother, uncles and aunts on the same side, and their descendants, or such of them as there be:

VIII. If there be no grandmother, uncle nor aunt, nor their descendants, then to the great grandfathers, or great grandfather if there be but one.

IX. If there be no great grandfather, then to the great grandmothers, or great grand mother if there be but one, and the brothers and sisters of the grandfathers and grandmothers, and their descendants, or such of them as there be:

X. And so on in other cases without end; passing to the nearest lineal male ancestors, and for the want of them to the lineal female ancestors in the same degree, and the descendants of such male and female lineal ancestors, or to such of them as there be.

XI. But no right in the inheritance shall accrue to any person whatever, other than to children of the intestate, unless they be in being and capable in law to take as heirs at the time of the intestates death.

None can inherit, except children, unless in being at intestate's death.

XII. And where for want of issue of the intestate, and of father, mother, brothers and sisters, and their descendants, the inheritance is before directed to go by moieties to the paternal and maternal kindred, if there should be no such kindred on the one part, the whole shall go to the other part: And if there be no kindred either on the one part or the other, the whole shall go to the wife or husband of the intestate. And if the wife or husband be dead, it shall go to her or his kindred, in the like course as if such wife or husband had survived the intestate and then died, entitled to the estate.

If no paternal kindred, the whole to maternal; if no maternal, the whole to paternal.
If none of either, to husband or wife.
If wife or husband dead.

XIII. And in the cases before mentioned where the inheritance is directed to pass to the ascending and collateral kindred of the intestate, if part of such collaterals be of the whole blood to the intestate, and other part of the half blood only, those of the half blood shall inherit only half so much as those of the whole blood: But if all be of the half blood, they shall have whole portions, only giving to the ascendants (if there be any) double portions.

Whole & half blood, how to take.

XIV. And where the children of the intestate, or his mother, brothers, and sisters, or his grandmother, uncles, and aunts, or any of his female lineal ancestors living, with the children of his deceased lineal ancestors male and female in the same degree come into the partition, they shall take per capita, that is to say by persons; and where a part of them being dead, and a part living, the issue of those dead have right to partition, such issue shall take per stirpes, or by stocks, that is to say, the share of their deceased parent.

Per capita.

Per stirpes.

XV. And where any of the children of the intestate, or their issue, shall have received from the intestate in his life-time any real estate by way of advancement, and shall choose to come into partition with the other parceners, such advancement shall be brought into hotchpot with the estate descended.

Advancements.

XVI. In making title by descent it shall be no bar to a demandant that any ancestor through whom he derives his descent from the intestate, is or hath been an alien. Bastards also shall be capable of inheriting or of transmitting inheritance on the part of their mother, in like manner as if they had been lawfully begotten of such mother.

Aliens, descent through

Bastards,

XVII. Where a man having by a woman one or more children, shall afterwards intermarry with such

Bastards legitimated.

woman, such child or children, if recognized by him, shall be thereby legitimated. The issue also in marriages deemed null in law shall nevertheless be legitimated.

Commence-
ment of act.

XVIII. This act shall commence and be in force from and after the first day of Jannary, one thousand seven hundred and eighty-seven.

CHAP. LXI.

An act concerning wills; the distribution of intestates estates; and the duty of executors and administrators.

From Re.v
Bills of 1779,
ch. XXI.

Wills of lands

In writing.

How attested.

Saving dower
of widows.

Revocation
of such wills.

Wills made
when testa-
tor had no
child.

I. *BE it enacted by the General Assembly, That every person aged twenty-one years or upwards, being of sound mind, and not a married woman, shall have power, at his will and pleasure, by last will and testament in writing, to devise all the estate, right, title, and interest, in possession, reversion, or remainder, which he hath, or at the time of his death shall have, of, in, or to lands, tenements, or hereditaments, or annuities, or rents charged upon issuing out of them; so as such last will and testament be signed by the testator, or by some other person in his presence, and by his direction; and moreover, if not wholly written by himself, be attested by two or more credible witnesses subscribing their names in his presence.*

II. *Saving to the widows of testators, their dower in such lands, tenements, rents, or annuities, according to the laws, which shall not be prejudiced by any devise thereof.*

III. *No devise so made, or any clause thereof, shall be revocable, but by the testator's destroying, cancelling, or obliterating the same, or causing it to be done in his presence, or by a subsequent will, codicil, or declaration in writing, made as aforesaid. But every last will and testament, made when the testator had no*

child living, wherein any child he might have is not provided for, or mentioned, if at the time of his death he leave a child, or leave his wife enseat of a child, which shall be born, shall have no effect during the life of such after born child, and shall be void unless the child die without having been married, or before he or she shall have attained the age of twenty-one years.

When a testator shall leave children born, and his wife enseat, the posthumous child or children, if neither be unprovided for by settlement, and be neither provided for nor disinherited, but only pretermitted by the last will and testament, shall succeed to the same portion of the father's estate, as such child would have been entitled to, if the father had died intestate; towards raising which portion, the devisees and legatees shall contribute proportionably out of the parts devised and bequeathed to them by the same will and testament.

Posthumous children pretermitted.

IV. No person under the age of eighteen years shall be capable of disposing of his chattels by will.

Disposition of chattels, by will. Nuncupative wills.

V. No nuncupative will, shall be established unless it be made in the time of the last sickness of the deceased, at his habitation, or where he hath resided for ten days next preceding, except where the deceased is taken sick from home and dies before he returns to such habitation; nor where the value exceeds ten pounds, unless it be proved by two witnesses that the testator called on some person present to take notice or bear testimony that such is his will, or words of the like import.

VI. After six months have elapsed from the time of speaking the pretended testamentary words, no testimony shall be received to prove a nuncupative will, unless the testimony, or the substance thereof, shall have been committed to writing within six days after making the will.

When not of force.

VII. No will in writing or any devise therein of chattels, shall be revoked by a subsequent will, codicil, or declaration, unless the same be in writing.

Revocation of wills of chattels.

VIII. Any soldier in actual military service, or any mariner or seaman being at sea, may dispose of his chattels as he might heretofore have done.

Wills by soldiers and sailors.

IX. If any person shall subscribe his name, as a witness to a will wherein any bequest is given to him, if the will may be not otherwise proved, the bequest shall be void, and such witness shall be allowed and com-

Witness, a legatee.

pellable to appear and give testimony on the residue of the will, in like manner as if no such bequest had been made. But if such witness would be entitled to any share of the testator's estate in case the will were not established, so much of his said shares shall be saved to him as shall not exceed the value of the legacy bequeathed him.

Jurisdiction
of courts, as
to probats.

X. The several county, city, or corporation courts, shall have power to hear and determine all causes, matters, suits, and controversies, testamentary, arising within their respective jurisdictions, and to examine and take the proof of wills, and grant certificates thereof according to the methods and rules following, that is to say: If any testator shall have a mansion house or known place of residence, his will shall be proved in the court of the county, city, or corporation wherein such mansion-house or place of residence is: If he hath no such place of residence, and lands be devised in the will, it shall be proved in the court of the county, city, or corporation wherein the lands lie, or in one of them where there shall be lands in several counties: And if he hath no such known place of residence, and there be no lands devised, then the will may be proved either in the court of the county, city, or corporation where the testator shall die, or that wherein his estate, or the greater part thereof, shall be, or such will may in any case be proved in the general court.

When probat
may be re-
ceived.

Validity of
will, how
contested.

XI. When any will shall be exhibited to be proved, the court having jurisdiction as aforesaid, may proceed immediately to receive the proof thereof, and grant a certificate of such probat: If however, any person interested, shall within seven years afterwards appear, and by his bill in chancery contest the validity of the will, an issue shall be made up, whether the writing produced be the will of the testator or not, which shall be tried by a jury, whose verdict shall be final between the parties; saving to the court a power of granting a new trial for good cause, as in other trials; but no such party appearing within that time, the probat shall be forever binding.

Evidence, on
trial of issue.

XII. In all such trials by jury, the certificate of the oath of the witnesses, at the time of the first probat, shall be admitted as evidence, to have such weight as the jury shall think it deserves.

XIII. No nuncupative will shall be proved within fourteen days after the death of the testator, nor until his widow (if any) and next of kin shall have been summoned to contest the same if they please.

Nuncupative wills, when proved

XIV. If the general court, or any county, city, or corporation court, having jurisdiction as aforesaid, shall be informed that any person hath the will of a testator in his custody, such court may summon such person, and by a proper process compel him to produce the same.

Production of wills, how compelled.

XV. If the executors named in any will shall all refuse the executorship, or being required to give security, as herein after-mentioned, shall refuse, or fail to give the same, which shall amount to a refusal, of the executorship, in either case, the court having jurisdiction as aforesaid, may receive the proof of the will, and grant a certificate for obtaining letters of administration with the same annexed, to the person to whom administration would have been granted if there had been no will of the deceased.

Administration with the will annexed, when.

XVI. Before granting a certificate of the probat of any will, the executor or administrator with the will annexed, as the case shall be, shall in open court take the following oath, to wit: "You shall swear that this writing contains the true last will of the within named

Oath of executor or administrator, with the will annexed.

, as far as you know or believe; and that you will well and truly perform the same, by paying first his debts, and then the legacies contained in the said will, as far as his goods, chattels, and credits will extend and the law charge you; and that you will make a true and perfect inventory of all the said goods, chattels, and credits, as also a just account when there-to required." And shall also give bond in such penalty as will be equal to the full value of the estate at the least, and with such security as shall be approved of by the court, with the following condition, to wit:—
"The condition of this obligation is, that if the said

Bond.

, executor of the last will and testament (or administrator with the will annexed, of all the goods, chattels, and credits) of , deceased, do make a true and perfect inventory of all and singular the goods, chattels, and credits of the said deceased, which have or shall come to the hands, possession, or knowledge of , the said , or into the hands or possession of

any other person or persons for , and
 the same so made, do exhibit into the court
 , at such time as shall
 be thereto required by the said court; and the same
 goods, chattels, and credits, do well and truly admin-
 ister according to law; and make a just and true ac-
 count of actings and doings therein,
 when thereunto required by the said court; and further,
 do well and truly pay and deliver all the legacies con-
 tained and specified in the said will, as far as the said
 goods, chattels, and credits will extend, according to
 the value thereof, and as the law shall charge
 ; then this obligation to be void, or else to
 remain in full force."

To whom
 bond paya-
 ble, and how
 prosecuted.

XVII. Which bond shall be payable to the judges
 or justices sitting in court, and their successors, and
 shall not become void upon the first recovery, but may
 be put in suit and prosecuted from time to time, by,
 and at the costs of any party injured, by a breach
 thereof, until the whole penalty be recovered there-
 upon.

When no se-
 curity requir-
 ed.

XVIII. But where any testator shall leave visible
 estate, more than sufficient to pay all his debts, and
 by will shall direct that his executors shall not be
 obliged to give security, in that case no security shall
 be required, unless the court shall see cause from their
 own knowledge, or the suggestions of creditors or le-
 gatees to suspect the executors of fraud, or that the
 testator's personal estate will not be sufficient to dis-
 charge all his debts, and shall require security, when
 the same shall be given, before a certificate shall be
 granted, notwithstanding any directions to the contra-
 ry in the testator's will.

Power of ex-
 ecutors be-
 fore probat.

XIX. The power of executors over their testator's
 estates before probat of the will, is not hereby restrain-
 ed, but shall continue as heretofore.

Curator ap-
 pointed, du-
 ring contest
 about a will.

XX. During any contest about a will, or in the ab-
 sence of executors, or whenever the court, from any
 other cause, shall judge it convenient, they may ap-
 point any person or persons to collect and preserve the
 estate of any decedent, until a probat of his will, or
 administration of his estate, be granted, taking bond
 and security for collecting the estate, making an in-
 ventory thereof, and safe keeping and delivering up

the same, when required, to the executors or administrators.

XXI. When any widow shall not be satisfied with the provision made for her by the will of her husband, she may within one year from the time of his death, before the general court, or court having jurisdiction of the probat of his will as aforesaid, or by deed, executed in the presence of two or more credible witnesses, declare that she will not take, or accept the provision made for her by such will, or any part thereof, and renounce all benefit which she might claim by the same will, and thereupon such widow shall be entitled to one-third part of the slaves whereof her husband died possessed, which she shall hold during her life, and at her death they and their increase shall go to such person or persons to whom they would have passed and gone if such declaration had not been made; and she shall moreover be entitled to such share of his other personal estate as if he had died intestate, to hold to her as her absolute property; but every widow, not making a declaration within the time aforesaid, shall have no more of her husband's slaves and personal estate, than is given her by his will.

Widow dissatisfied with will, when and how she may renounce.

Her dower thereupon.

XXII. And that if any widow possessed of a slave or slaves as of the dower of her husband, shall remove, or voluntarily permit to be removed out of this commonwealth, such slave or slaves, or any of their increase, without the consent of him or her in reversion, such widow shall forfeit all and every such slave or slaves, and all other the dower which she holds of the endowment of her husband's estate, unto the person or persons that shall have the reversion thereof; any law, custom, or usage to the contrary, notwithstanding.

Widow removing dower slaves.

XXIII. And if any widow possessed as aforesaid, shall be married to a husband who shall remove, or voluntarily permit to be removed of this commonwealth, any such slave or slaves, or any of their increase, without the consent of him or her in reversion; in such case it shall be lawful for him or her in reversion to enter into, possess, and enjoy all the estate which such husband holdeth in right of his wife's dower for and during the life of the said husband.

Husband of widow removing dower slaves.

XXIV. All original wills shall be recorded, and shall also remain in the clerk's office of the court wherein they are respectively proved, except during

Wills to be recorded, and remain in clerk's office.

such time as they may be in any superior court, having been removed thither for inspection by certiorari, or otherwise, after which they shall be returned to the said office.

Intestate's estates, how distributed. XXV. When any person shall die intestate as to his goods and chattels or any part thereof, after funeral, debts, and just expences paid; if there be no child, one moiety, or if there be a child or children, one-

Widow's dower therein. third of the surplus shall go to the wife, but she shall have no more than the use for her life of such slaves as shall be in her share, and the residue of the surplus, and after the wife's death, the slaves in her share, or if there be no wife, then the whole of such surplus shall be distributed in the same proportions, and to the same persons, as lands are directed to descend in, and by an act of general assembly, intituled "An act directing the course of descents."

Husband not bound to distribute estate of his wife, dying intestate. Nothing in this act contained, shall be understood so as to compel the husband to make distribution of the personal estate of his wife dying intestate. Where any children of the intestate, or their issue, shall have received from the intestate, in his life-time, any personal estate by way of advancement, and shall choose to come into the distribution with the other persons entitled, such advancement shall be brought into hotchpot with the distributable surplus.

Hotchpot.

Jurisdiction in granting administration. XXVI. The general court, and the several courts, respectively, shall have the like jurisdiction to hear and determine the right of administration of the estates of persons dying intestate, as is herein before mentioned, as to the proof of wills, in respect to the intestate's place of residence, or death, or where the estate shall lie, and shall grant certificates for obtaining such administration to the representatives who apply for the same, preferring first the husband or wife, and then such others as are next entitled to distribution, or one or more of them, as the court shall judge will best manage and improve the estate.

Who to be preferred.

When administration granted to creditor. Creditor may be superseded, by grant to others, or proof will. XXVII. If no such person applies for administration within thirty days from the death of an intestate, the court may grant administration to any creditor or creditors who apply for the same, or to any other person the court shall in their discretion think fit: But if any will shall afterwards be produced, and proved by executors, or the wife or other distributee, who shall

not have before refused, shall apply for the administration, the same shall be granted, in like manner as if the former had not been obtained.

XXVIII. Before granting a certificate for the administration of any estate, the person or persons to whom the same is granted; shall in open court take the following oath, to wit: "You shall swear that deceased, died without any will, as far as you know or believe; and that you will well and truly administer all and singular the goods, chattels, and credits of the said deceased, and pay his debts as far as his goods, chattels, and credits will extend, and the law require you; and that you will make a true and perfect inventory of all the said goods, chattels, and credits, as also a just account when thereunto required. So help you God."

Oath of administrator.

XXIX. And shall also give bond, in a penalty at least equal to the value of the estate, and with such security as shall be approved by the court; with the following condition, to wit: "The condition of this obligation is, that if the said , administrator of the goods, chattels, and credits of deceased, do made a true and perfect inventory of all and singular the goods, chattels, and credits of the said deceased, which have or shall come to the hands, possession, or knowledge of , the said , or in the hands or possession of any other person or persons, for ; and the same so made do exhibit into the court, , when he shall be thereto required by the said court; and such goods, chattels, and credits, do well and truly administer according to law; and further, do make a just and true account of his actings and doings therein, when thereto required by the said court: And all the rest of the said goods, chattels, and credits, which shall be found remaining upon the account of the said administrator, the same being first examined and allowed by the justices of the said court for the time being, shall deliver and pay unto such persons respectively as are entitled to the same by law; and if it shall hereafter appear that any last will and testament was made by the deceased, and the same be proved in court, and the executor obtain a certificate of the probat thereof, and the said do in such case, being required, render and deliver up his letters of administration, then this obli-

Bond.

gation to be void, else to remain in full force;" which bond shall be payable to the sitting justices and their successors, and may be put in suit and prosecuted in like manner, as is before directed in the case of bonds to be given by executors or administrators, with the will annexed.

Securities
not liable be-
yond the as-
sets, for de-
fect of plead-
ing.

XXX. But no security for any executor or administrator shall be chargeable beyond the assets of the testator or intestate, by reason of any omission or mistake in pleading or false pleading of such executors or administrators.

Court liable,
if insufficient;
security tak-
en.

XXXI. If any court shall grant a certificate for obtaining administration of the estate of any person deceased without taking good security for the same, as aforesaid, to be judged of according to the apparent circumstances of the security when taken, and not from subsequent accidents or discoveries thereof, the justices of such court then sitting shall be answerable to the person or persons injured, for all loss or damage occasioned by the not requiring any, or by the taking insufficient security, recoverable with costs, by action on the case, in any court of record.

How securi-
ties relieved.

XXXII. When securities for executors or administrators conceive themselves in danger of suffering thereby, and petition the court for relief, the court shall summon the executor or administrator, and make such order or decree thereupon, to relieve and secure the petitioners, by counter security, or otherwise, as to them shall seem just and equitable.

Certificates
of administra-
tion effectual.

XXXIII. All certificates of probat or of administration, attested by the clerk, shall enable the executor or administrator to act, and may be produced or given in evidence in any court within this commonwealth, and be as effectual as any probat or letters of administration made out in due form; nevertheless the clerks of the courts shall, when required by an executor or administrator, make out such probat or letters, in due form, in the name of the first justice of the court, which probat or letters shall be signed by such justice, and sealed with the county, city, or corporation seal, if the will be proved in a county, city, or corporation court, or with the seal of the commonwealth, if proved in the general court.

Letters of ad-
ministration
in due form.

Lists of ad-
ministrations
to be return-

XXXIV. The clerk of every county, city, or corporation court, shall half yearly, in the months of April

and October, return to the clerk of the general court, a list of all certificates granted in his court for probats and administrations, within the preceding half year, in this form [date of certificate] [name of testator or intestate] [names of securities] [penalty of bond] which lists, together with such certificates as are granted in the general court, shall be entered by the clerk of the general court, alphabetically, in books for that purpose.

ed to clerk
of general
court.

XXXV. Every court granting a certificate for a probat or administration, shall nominate three or more appraisers in every county, city, or corporation, where any of the personal estate of the decedent shall be, who being sworn before a justice of the peace, for that purpose, shall truly, and justly, to the best of their judgment, view and appraise all the personal estate, to them produced; and shall return such appraisement under their hands to the court ordering the same; which appraisement, if signed by the executor or administrator, may be considered as an inventory of such part of the estate as had theretofore come to his hands.

Appraisers.

XXXVI. Inventories and appraisements may be given in evidence in any suit, by or against the executor or administrator, but shall not be conclusive for or against him if other testimony be given that the estate was really worth, or was, bona fide, sold for more or less than the appraisement.

Inventories
and appraisements,
how
far evidence.

XXXVII. Each appraiser shall be entitled to thirty pounds of tobacco, per day, for his attendance, to be paid by the executor or administrator, and charged to the estate.

Appraiser al-
lowance.

XXXVIII. Executors and administrators, whether it be necessary for payment of debts, or not, shall as soon as convenient, after they are qualified, sell at public sale, all such goods of their testator, or intestate, specific legacies excepted, as are liable to perish, be consumed, or rendered worse by keeping, giving such credit as they shall judge best, and the circumstances of the estate will admit of, taking bond and good security of the purchasers, and shall account for such goods according to the sales. If more be sold than will pay the debts and expences, the executor or administrator may assign the bonds for the surplus, to those entitled to the estate, and be discharged as to so much.

Sale of per-
ishable goods

Sale of other
personal es-
tate; slaves
last.

XXXIX. If such perishing goods be not sufficient for paying the debts and expences, the executor or administrator shall proceed in the next place to sell the other personal estate, disposing of the slaves last, until the debts and expences be all paid, having regard to the privilege of specific legacies.

When no ap-
praisement
necessary.

XL. Nevertheless, if the testator direct his estate not to be appraised, it shall be sufficient to return an inventory thereof only; and if he direct his estate not to be sold, the same shall be preserved in specie, unless a sale be necessary for the payment of debts.

Dead victu-
als and li-
quors, for use
of family.

XLI. The dead victuals and liquors, which at the death of any testator or intestate shall have been laid in for consumption in his family, shall not be sold by the executor or administrator, but shall remain for the use of such family without account thereof to be made: If, however, before its final consumption, any child shall leave the family, such child shall have a right to carry with him an equal share of what shall then be on hand. Any live stock which may be necessary for the food of the family, may also be killed for that use, at any time before the sale, division, or distribution of the estate.

Sale of lands
devised to be
sold, how
made.

XLII. The sale and conveyance of lands devised to be sold, shall be made by the executors, or such of them as shall undertake the execution of the will, if no other person be thereby appointed for that purpose, or if the person so appointed shall refuse to perform the trust, or die before he shall have completed it.

Rules as to
servants,
slaves and
crops,

XLIII. If any person shall die after the first day of March, the servants and slaves of which he was possessed, whether held for life or for other interest, and which were employed in making a crop, shall be continued on the plantations in the occupation of the decedent, until the last day of December following, and then delivered to those who shall have a right to demand the same; and their crops shall be assets in the hands of the executors and administrators, subject to debts, legacies, and distribution; the levies and taxes, their tools, the expence of feeding them and their families to that time, and delivering them well clothed, being first deducted. And if such servants or slaves be held by the testator or intestate for his life only, in that case the executor or administrator shall be obliged to deliver to those who are entitled in remainder or reversion, three

barrels of Indian corn for every such servant or slave, old and young, to be allowed in their accounts of administration.

XLIV. If a testator or intestate shall die after the first day of March, all the emblements of his lands, which shall be severed before the said thirty-first day of December following, shall, in like manner be assets in the hands of the executor or administrator; but all such emblements growing on the lands on that day, or at the time of the death of the testator or intestate, if that event happen after the thirty-first day of December, and before the first day of March, shall pass with the land to the heir, devisee, reversioner, or remainder man. Emblements.

XLV. If there be tenant for life of lands or slaves let or hired to another, at the death of such tenant for life, if that event happen after the first day of March, the lessee, or person hiring, shall hold the lands and slaves until the last day of December following, paying rent or hire to that time, and in the case of slaves, delivering them well clothed: Tenant for life dying.

XLVI. The rent of land or hire of slaves shall be apportioned between the executor or administrator of him who having a freehold, or other uncertain estate in the land, and the use for life, or for other uncertain term in the slaves, shall die before the rent or hire become due, and him who shall succeed to the land and slaves, as heir, devisee, or person in reversion or remainder, unless in the case of a devisee, the contrary be directed by the testator. Rent & hire apportioned.

LXVII. The appointment of a debtor executor shall in no case be deemed an extinguishment of the debt, unless it be so directed in the will. Debtor appointed executor.

LXVIII. No distribution shall be made of an intestate's state until nine months after his death, nor shall an administrator be compelled to make distribution at any time, until bond and security be given by the person entitled to distribution, to refund due proportions of any debts or demands, which may afterwards appear against the intestate, and the costs attending the recovery of such debts. Distribution of intestates, estates, when made.
Bond to refund.

LXIX. Executors and administrators shall be allowed in their accounts all reasonable charges and disbursements which they shall lay out and expend in the Allowances to executors and administrators.

funeral of the deceased, and other their administration; and in extraordinary cases may be allowed such recompence for their personal trouble, as the court on passing their accounts shall judge reasonable.

**[Debts of first
dignity, guardian to ward,**

L. The executors or administrators of a guardian of a committee, or of any other person, who shall have been chargeable with, or accountable for the estate of a ward, an idiot, or a lunatic, or the estate of a dead person, committed to their testator or intestate by a court of record, shall pay so much as shall be due from their testator or intestate, to the ward, idiot, or lunatic, or to the legatees or persons entitled to distribution, before any proper debt of their testator or intestate.

Power of tenant to devise

LI. Where any persons shall die seized of lands held for life of another, such person may, by his or her last will and testament, in writing, made and proved as is herein before directed, for the devise of lands, devise all his interest in such lands, which shall, if necessary, be assets in the hands of such devisee. And if no such devise be made, such lands for the residue of the term, shall be assets in the hands of the heir, if it shall come to him by reason of a special occupancy, in the same manner as lands descending in fee simple; and if there shall be no special occupant, it shall go to the executors or administrators of the person so dying, seized, and be assets in their hands, subject to debts, legacies, and distribution.

**Suits against
executors or
administrators.**

LII. Executors or administrators may sue or be sued upon all judgments, bonds, or other specialties, bills, notes, or other writings of their testators or intestates, whether the executors or administrators be, or be not named in such instruments, and also upon all their personal contracts.

Tresspass.

LIII. Actions of trespass may be maintained by or against executors or administrators, for any goods taken and carried away in the life-time of the testator or intestate; and the damages recovered shall be in the one case for the benefit of the estate, and in the other out of the assets.

**Executors of
executors;**

LIV. Executors of executors shall do and perform all things in the execution of the will of the first testator, which shall remain undone at the death of the first executor; and shall and may sue or be sued in all things respecting the estate, in the same manner as such first executor could or might have sued or been sued.

LV. If all the executors named in any last will, shall refuse to undertake the executorship, or being required to give security, shall refuse to give, or be unable to procure the same, and no person will apply for administration with the will annexed: Or if no person will apply for administration of the goods and chattels of any intestate, it shall be lawful for the general court, or other court having jurisdiction of such probat or administration as herein before mentioned, after the expiration of three months from the death of the testator or intestate, to order the sheriff of the county, city, or corporation, to take the estate into his possession, and make sale of so much thereof by public auction, as the payment of debts shall make necessary, or as shall be perishable, or be directed by will to be sold: And all sales and conveyances, *bona fide* made by the sheriff or his deputies, in consequence of such order, shall be as effectual to the purchasers, as if they had been made by the testator or intestate in his life time. The estate shall be sold upon such credit, as the court shall direct, and upon public notice previously given, the purchasers giving bond and good security for payment according to the limited time of credit. The sheriff may sue, if necessary, for the recovery of debts, or of goods and chattels, and shall make a true and perfect inventory of the whole estate, and an account of sales, and shall return the same, together with the bonds, to the court by whom he was ordered to sell, without delay, who shall first direct the payment of such debts as shall be proved before them, and proportion the assets amongst the creditors, without regard to the dignity of debts, where there shall not be sufficient to pay the whole; and then order the surplus, if any, to the legatees or next of kin to the decedent, according to the directions of the will, or of this act. Whereupon the sheriff, or deputy, shall assign the bonds, and deliver the estate remaining unsold, to the creditors, or others, according to such order, retaining nevertheless his commissions, which shall be the same upon the estate by him sold, as is allowed for goods taken in execution: and where the whole estate is not sold, he shall moreover be allowed his reasonable expences and disbursements in the care of the part unsold.

Estate committed to sheriff, when, his power & duty.

LVI. All sales and conveyances of lands heretofore *bona fide* made by a sheriff, under an order of court, Sales by sheriffs confirmed

where the lands had been devised to be sold, and the executor had refused to act, are hereby confirmed and made effectual against all persons claiming under the testator.

LVII. This act shall commence and be in force from and after the first day of January, one thousand seven hundred and eighty-seven.

CHAP. LXII.*

From Rev.
Bills of 1779.
ch. XXII.

An act for regulating coveyances.

Conveyances
of lands, to be
by deed.

I. *BE it enacted by the General Assembly, That no estate of inheritance, or freehold, or for a term of more than five years in lands or tenements, shall be conveyed from one to another unless the conveyance be declared by writing, sealed and delivered; nor shall such conveyance be good against a purchaser, for valuable consideration, not having notice thereof, or any creditor, unless the same writing be acknowledged by the party or parties who shall have sealed and delivered it, or be proved by three witnesses to be his, her, or their act, before the general court, or before the court of that county, city, or corporation, in which the land conveyed, or some part thereof, lieth, or in the manner herein after directed, within eight months after the time of sealing and delivering, and be lodged with the clerk of such court, to be there recorded. No covenant or agreement made in consideration of marriage shall be good against a purchaser, for valuable consideration, not having notice thereof, or any creditor, unless the same covenant or agreement be acknowledged by the party bound thereby, or be proved by three witnesses to be his, her, or their act; if land be charged before the general court, or the court of that county in which the land or part thereof lieth, or if personal estate only be settled, or covenanted, or agreed to be paid or settled, before the court of that county in which such*

When and
where record
ed.

Marriage con-
tracts.

* Erroniously numbered XLII in the original.

party shall dwell, or in the manner hereinafter directed, within eight months after the covenant or agreement made and be lodged with the clerk of such court, to be there recorded. If the party who shall sign and seal any such writing reside not in Virginia, the acknowledgment by such party, or the proof by the number of witnesses requisite, of the sealing and delivering of the writing, before any court of law, or the mayor, or other chief magistrate of any city, town or corporation of the county in which the party shall dwell, certified by such court, or mayor, or chief magistrate, in the manner such acts are usually authenticated by them, and offered to the proper court to be recorded, within eighteen months after the sealing and delivering, shall be as effectual as if it had been in the last mentioned court. When husband and wife shall have sealed and delivered a writing, purporting to be a conveyance of any estate or interest, if she appear in court, and being examined privily, and apart from her husband, by one of the judges thereof, shall declare to him that she did freely and willingly seal and deliver the said writing, to be then shewn and explained to her, and wishes not to retract it, and shall, before the said court, acknowledge the said writing, again shewn to her, to be her act, or if before two justices of the peace of that county in which she dwelleth, if her dwelling be in the United States of America, who may be empowered by commission to be issued by the clerk of the court wherein the writing ought to be recorded, to examine her privily, and take her acknowledgment, the wife being examined privily and apart from her husband, by those commissioners, shall declare that she willingly signed and sealed the said writing, to be then shewn and explained to her, by them, and consenteth that it may be recorded; and the said commissioners shall return with the commission, and thereunto annexed, a certificate. under their hands and seals, of such privy examination by them, and of such declaration made, and consent yielded by her, in either case the said writing acknowledged also by the husband, or proved by witnesses to be his act, and recorded, together with such her privy examination and acknowledgment before the court, or together with such commission and certificate, shall not only be sufficient to convey or release any right of dower thereby intended to be conveyed or released, but be as effectual

Proof of deeds out of the state, how and when to be recorded.

Wife's relinquishment of dower, how taken in the state.

Relinquish-
ment of dower
how taken
out of the
state.

for every other purpose as if she were an unmarried woman. If the dwelling of the wife be not in the United States of America, the commission to examine her privily and take her acknowledgment, shall be directed to any two judges or justices of any court of law, or to the mayor, or other chief magistrate of any city, town, or corporation of the county in which the wife shall dwell, and may be executed by them in the same manner as a commission directed to two justices in the United States of America; and the certificate of the judges or justices of such court, or the certificate of such mayor or chief magistrate, authenticated in the form, and with the solemnity by them used in other acts, shall be as effectual as the like certificate of the justices in the United States of America.

Deeds of re-
linquishment
of dower to
be recorded.

The clerk of every court shall record all writings acknowledged, or proved before such court, or certified to have been acknowledged or proved, in manner before prescribed, together with the commissions for privily examining and taking the acknowledgments of married women, and all endorsements on such writings, and plots, schedules, and other papers thereto annexed, by entering them, word for word, in well bound books, to be carefully preserved, and afterwards re-deliver them to the parties entitled to them; and shall moreover make a docket of all such writings, containing the dates thereof, and of the acknowledgments and probats, the names, surnames, and additions of the parties thereto, in alphabetical order, and the quantities and situations of land, numbers and names of slaves, and descriptions of personal estate conveyed thereby; and the clerk of every county court shall transmit such docket made by him to the clerk of the general court, in every April and October term, to be recorded by him. Every estate in lands or

Originals to
be re-deliv-
ered to par-
ties.

Memorials to
be transmit-
ted to clerk
of general
court.

Fee tail con-
verted into
simple.

slaves, which on the seventh day of October, in the year of our Lord one thousand seven hundred and seventy-six, was an estate in fee tail, shall be deemed from that time to have been, and from thence forward to continue, an estate in fee simple; and every estate in lands, which since hath been limited, or hereafter shall be limited, so that as the law aforetime was, such estate would have been an estate tail, shall also be deemed to have been and to continue an estate in fee simple: And all estates, which before the said seventh

Discharged
of conditions

day of October, one thousand seven hundred and seventy-six, by the law, if it remained unaltered, would have been estates in fee tail, and which now, by virtue of this act, are and will be estates in fee simple, shall from that time and henceforth be discharged of the conditions annexed thereto by the common law, restraining alienations before the donee shall have issues, so that the donees or persons in whom the conditional fees vested, or shall vest, had, and shall have, the same power over the same estates as if they were pure and absolute fees. Every estate in lands which shall hereafter be granted, conveyed or devised to one, although other words heretofore necessary to transfer an estate of inheritance be not added, shall be deemed a fee simple, if a less estate be not limited by express words, or do not appear to have been granted, conveyed or devised, by construction or operation of law. Where an estate hath been or shall be by any conveyance limited in remainder to the son or daughter, or to the use of the son or daughter of any person, to be begotten, such son or daughter, born after the decease of his or her father, shall take the estate in the same manner as if he or she had been born in the life time of the father, although no estate shall have been conveyed to support the contingent remainder after his death.—By deed of bargain and sale, or by deeds of lease and release, or by covenant, to stand seized to use, or deed operating by way of covenant, to stand seized to use, the possession of the bargainer, releaser, or covenantor, shall be deemed heretofore to have been, and hereafter to be transferred, to the bargainee, releasee, or person entitled to the use, for the estate or interest which such person hath or shall have in the use, as perfectly as if such bargainee, releasee, or person entitled to the use, had been enfeoffed with livery of seizin of the land intended to be conveyed by such deed or covenant. Estates of every kind, holden or possessed in trust, shall be subject to like debts and charges of the persons to whose use or for whose benefit they were, or shall be respectively holden or possessed, as they would have been subject to if those persons had owned the like interest in the things holden or possessed, as they own or shall own in the uses or trusts thereof. Where any person to whose use, or in trust for whose benefit, another is or shall be seized of lands,

at common law.

Words of perpetuity, unnecessary.

Remainders.

Trusts.

Uses.

- tenements, or hereditaments, hath or shall have such inheritance in the use or trust as that if it had been a legal right, the husband or wife of such person would thereof have been entitled to curtesy or dower, such husband or wife shall have and hold, and may by the remedy proper in similar cases, recover curtesy or dower of such lands, tenements, or hereditaments.— Grants of rents, or of reversions, or remainders, shall be good and effectual without attainments of the tenants, but no tenant who, before notice of the grant, shall have paid the rent to the grantor, shall suffer any damage thereby. The attainment of a tenant to any stranger, shall be void, unless it be with consent of the land-lord of such tenant, or pursuant to, or in consequence of the judgment of a court of law, or the order or decree of a court of equity.
- Dower, curtesy.**
- Attainment.**
- Commencement of act.** II. This act shall commence and be in force from and after the first day of January, one thousand seven hundred and eighty-seven.

From Rev.
Bills of 1779,
ch. XXIV.

CHAP. LXIII.

An act concerning escheators.

- Escheators, how appointed. Bond and security.** I. *Be it enacted by the General Assembly, That* there shall be one escheator commissioned in every county, by the governor, on recommendation from the court of the same county, who shall execute his office in proper person, and not by deputy, and shall, before the court of the county, be bound in the penalty of one thousand pounds, with security, to be approved by the same court, duly to perform the duties of the said office.
- Not act by deputy.**
- Inquests, how to be taken.** II. The said escheator shall sit in convenient and open places, and shall take his inquests of fit persons, who shall be returned and empannelled by the sheriff of the county, and shall suffer every person to give evidence openly in their presence, to such inquests; and the said inquisition so taken, shall be, by indentures to be made between the said escheator and them of the inquest, whereof the counter-part, sealed by the escheator, shall remain in the possession of the first person

that shall be sworn in the said jury, and by him shall be returned to the court of the same county, there to be recorded; and the other part, sealed by the jurors, shall by the escheator, be sent into the general court, within one month after the inquest taken. And if it be found for the commonwealth, and there shall be any man that will make claim to the lands, he shall be heard without delay, on a traverse to the office, *monstrans de droit*, or petition of right; and the said lands or tenements shall be committed to him, if he shew good evidence of his right and title to hold, until the right shall be found and discussed for the commonwealth, or for the party finding sufficient surety to prosecute his suit with effect, and to render and pay to the commonwealth the yearly value of the lands, if the right be discussed for the commonwealth.

Traverse,
monstrans de droit.

III. No lands or tenements seized into the hands of this commonwealth upon such inquest taken before escheators, shall be in any wise granted, nor to farm let, to any, if it be not to him or them which claim, as is aforesaid, till the same inquests and verdicts be fully returned into the general court, nor within six months after the same return, but shall entirely and continually remain in the hands of the escheators, who shall answer to the commonwealth the issues and profits yearly coming of the said lands and tenements, without doing waste or destruction.

Lands, found
for common-
wealth, how
long to re-
main in hands
of escheator.

IV. If no person within the six months before mentioned make claim to the lands or tenements so seized, or claim being so made, if it be found and discussed for the commonwealth, the clerk of the general court shall, within one month thereafter, certify to the escheator of the county wherein the lands lie, that no claim hath been made, or that being made, it hath been discussed for the commonwealth, which escheator shall thereupon proceed to make sale of the lands, for the benefit of the commonwealth, to him who will give the most, after one month's public notice of the time and place of doing the same, and shall certify the purchaser and price to the register of the land-office, who, on receiving a certificate that such price hath been paid into the treasury, shall have a grant executed to the purchaser, in such manner as by law directed in the case of unappropriated lands.

When and
how sold.

Saving rights
of others.

V. Where any person holds lands or tenements for a term of years, or hath any rent, common, office, fee, or other profit apprender of any estate of freehold, or for years or otherwise, out of such land or tenements, which shall not be found in such office or inquisition, such person shall hold and enjoy his lease, interest, rent, common, office, fee, and profit apprender, in manner as if no such office or inquisition had been found, or as if such lease, interest, rent, common, office, or profit apprender had been found in such inquisition. Also, if one person or more be found heir by office or inquisition in one county, and another person be found heir to the same person in another county, or if any person be untruly found lunatic, idiot, or dead, or where it shall be untruly found that any person attainted of treason or felony, is seized of any lands, tenements, or hereditaments, at the time of such treason or felony committed, or at any time after, whereunto any other person hath any just title or interest of any estate of freehold, the person grieved by such office or inquisition may have his traverse or monstrans de droit to the same, without being driven to any petition of right, and proceed to trial therein, and have like remedy and restitution upon his title found or judged for him therein, as in other cases of traverse upon untrue inquisition found.

Inquests, un-
truly found
remedy.

Commence-
ment of act.

VI. This act shall commence and be in force from and after the first day of January, one thousand seven hundred and eighty-seven.

CHAP. LXIV.

From Rev.
Bills of 1779,
ch. XXV.

An act to prevent frauds and perjuries.

Certain con-
tracts not
binding un-
less in writ-
ting.

I. BE it enacted by the General Assembly, That no action shall be brought whereby to charge any executor or administrator upon any special promise to answer any debt or damages out of his own estate, or

whereby to charge the defendant upon any special promise to answer for the debt, default, or miscarriage of another person or to charge any person upon any agreement made upon consideration of marriage, or upon any contract for the sale of lands, tenements, or hereditaments, or the making any lease thereof for a longer term than one year, or upon any agreement which is not to be performed within the space of one year from the making thereof, unless the promise or agreement upon which such action shall be brought, or some memorandum or note thereof shall be in writing, and signed by the party to be charged therewith, or some other person by him thereunto lawfully authorized.

II. Every gift, grant, or conveyance of lands, tenements, hereditaments, goods or chattels, or of any rent, common, or profit out of the same, by writing or otherwise, and every bond, suit, judgment or execution, had or made, and contrived of malice, fraud, covin, collusion or guile, to the intent or purpose to delay, hinder, or defraud creditors of their just and lawful actions, suits, debts, accounts, damages, penalties, or forfeitures, or to defraud or deceive those who shall purchase the same lands, tenements, or hereditaments, or any rent, profit, or commodity out of them, shall be from henceforth deemed and taken (only as against the person or persons, his, her, or their heirs, successors, executors, administrators or assigns, and every of them, whose debts, suits, demands, estates interests, by such guileful and covinous devices and practices, as is aforesaid, shall or might be in any wise disturbed, hindered, delayed or defrauded) to be clearly and utterly void, any pretence, colour, feigned consideration, expressing of use, or any other matter or thing, to the contrary notwithstanding. And moreover, if a conveyance be of goods and chattels and be not on consideration deemed valuable in law, it shall be taken to be fraudulent within this act, unless the same be by will duly proved and recorded, or by deed in writing acknowledged or proved, if the same deed include lands also, in such manner as conveyances of land are by law directed to be acknowledged or proved, or if it be of goods and chattels only, then acknowledged or proved by two witnesses in the general court, or court of the county wherein one of the parties live, within eight

Conveyances to defraud creditors void.

What conveyances deemed fraudulent

Loans when
fraudulent.

months after the execution thereof, or unless possession shall really and *bona fide* remain with the donee. And in like manner where any loan of goods and chattels shall be pretended to have been made to any person with whom, or those claiming under him, possession shall have remained by the space of five years without demand made, and pursued by due process at law on the part of the pretended lender, or where any reservation or limitation shall be pretended to have been made of a use or property, by way of condition, reversion, remainder, or otherwise, in goods and chattels, the possession whereof shall have remained in another as aforesaid, the same shall be taken as to the creditors and purchasers of the persons aforesaid, so remaining in possession, to be fraudulent within this act, and that the absolute property is with the possession, unless such loan, reservation, or limitation of use or property, were declared by will or by deed, in writing proved, and recorded as aforesaid.

Not to extend
to bona fide
conveyances.

III. This act shall not extend to any estate or interest in any lands, goods or chattels, or any rents, common or profit out of the same, which shall be upon good consideration, and *bona fide*, lawfully conveyed or assured to any person or persons, bodies politic or corporate.

Commence-
ment of act.

IV. This act shall commence and be in force from and after the first day of January, one thousand seven hundred and eighty-seven.

From Rev.
Bills of 1779.
ch. XXVII.

CHAP. LXV.

An act concerning the dower and jointures of widows.

Widow may
remain in
mansion
house till dower
is assigned.

I. *BE it enacted by the General Assembly, That a* widow after the death of her husband shall tarry in the mansion house of her husband and the plantation there-to belonging, rent free, until her dower shall be assigned her. And if she be thereof in the mean time deforced, she shall have a vicontiel writ, in the nature of a

writ, de quarentina habenda, directed to the sheriff, whereupon such proceedings and speed shall be used as hath or might have been used on the said writ of quarentine.

**Remedy, if
deforced.**

II. Whosoever shall deforce widows of their dowers of the lands whereof their husbands died seized, or of such mansion house or plantation, if the same widows shall after recover by plea; they that be convicted of such wrongful deforcement, shall yield damages to the same widows, that is to say, the value of the whole dower to them belonging, from the time of the death of their husbands unto the day that the said widows by judgment have recovered seizin of their dower. In a writ of dower called *unde nihil habet*, the writ shall not abate by the exception of the tenant, because the demandant hath received her dower of another man before her writ purchased, unless he can shew that the dower so received was in satisfaction of her right of dower in the lands whereof she demands dower.

**Damages for
deforcing wi-
dows of dower,**

**What excep-
tion shall not
abate the writ**

III. In case where the husband being impleaded for land by default, the woman after his death demanding her dower, shall be heard, and if it be alledged against her, that her husband lost the land whereof the dower is demanded by judgment, whereby she ought not to have dower, and then it be inquired by what judgment, and it be found that it was by default, whereupon the tenant must answer, then it behoveth the tenant to answer further, and to shew that he had right and hath in the aforesaid land, according to the form of the writ that the tenant before purchased against the husband. And if he can shew that the husband of such wife had no right in the lands, nor any other but he that holdeth them, the tenant shall go quit, and the wife shall recover nothing of her dower, which thing if he cannot shew, the wife shall recover her dower.

**Judgment by
default a-
gainst hus-
band, no bar
to widow.**

IV. And where sometime it chanceth that a woman not having a right to demand dower, the heir being within age doth purchase a writ of dower against a guardian, and the guardian endoweth the woman by favour, or maketh default, or by collusion defendeth the plea so faintly, whereby the woman is awarded her dower in prejudice of the heir, it is provided, that the heir when he cometh to full age, shall have an action to demand the seizin of his ancestor against such a woman, like as he should have against any other deforcer.

**Remedy,
where the wi-
dow is endow-
ed to the pre-
judice of the
heir within
age.**

Judgment by
default a-
gainst the
widow, no bar

Writ of dow-
er.

What tenant
may plead

Widow may
bequeath
crops.

Forfeiture of
dower.

Jointure, in
lieu of dower

Defective
conveyances
in lieu of
dower, effect
of.

Yet so that the woman shall have her exception saved against the demandant, to shew that she had right to her dower, which if she can shew, she shall go quit, and retain her dower, and if not, the heir shall recover his demand. In like manner the woman shall be aided, if the heir or any other do implead her for her dower, if she lose her dower by default, in which case the default shall not be so prejudicial to her, but that she shall recover her dower if she have right thereto; and she shall have this writ, "Command A. that justly, &c. he render to B. who was the wife of F. so much land, with the appurtenances, in C. which she claims to be her reasonable dower, or of her reasonable dower, and that the aforesaid A. deforceth her, &c." And to this writ the tenant shall have his exception, to shew that she had no right to be endowed, which if he can verify, he shall go quit, if not, the woman shall recover the land whereof she was endowed before. Also, widows may bequeath the crop of their ground, as well of their dowers as of other their lands and tenements.

V. But if a wife willingly leave her husband, and go away and continue with her adulterer, she shall be barred forever of action to demand her dower, that she ought to have of her husband's lands, if she be convict thereupon, except that her husband willingly, and without coercion, reconcile her, and suffer her to dwell with him, in which case she shall be restored to her action.

VI. Also, if any estate be conveyed by deed or will, either expressly or by averment, for the jointure of the wife, in lieu of her dower, to take effect in her own possession, immediately on the death of her husband, and to continue during her life at the least, determinable by such acts only as would forfeit her dower at the common law, such conveyance shall bar her dower of the residue of the lands, tenements, or hereditaments, which at any time were her said husband's. But if the said conveyance were before the marriage, and during the infancy of the feme, or if it were made after marriage, in either case the widow may at her election waive such jointure, and demand her dower.

VII. When any conveyance intended to be in lieu of dower shall through any defect fail to be a legal bar thereto, and the widow availing herself of such defect, shall demand her dower, the estate and interest con-

veyed to such widow, with intention to bar her dower, shall thereupon cease and determine.

VIII. If a widow be lawfully expulsed, or evicted from her jointure, or any part thereof, without any fraud or covin, by lawful entry or action, she shall be endowed of as much of the residue of her husband's lands, tenements, or hereditaments, whereof she was before dowable, as the same lands, tenements, or hereditaments, so evicted and expulsed, shall amount or extend unto.

Widow evicted of jointure how recompensed.

IX. This act shall commence and be in force from and after the first day of January, one thousand seven hundred and eighty-seven.

Commencement of act.

CHAP. LXVI.

From Rev. Bills of 1779 ch. XXVIII.

An act for the preservation of the estates of ideots and lunatics.

I. *BE* it enacted by the General Assembly, That the lands, tenements, and chattels, of ideots and lunatics, shall be safely kept without waste and destruction, and they and their household shall live, and be maintained competently with the profits of the same, and the residue, besides their sustentation, shall be kept for their use, to be delivered unto them when they come to right mind: And if they die in such estate, their lands shall be rendered to the right heirs, and their chattels distributed.

Estates of ideots and lunatics, how preserved.

II. This act shall commence and be in force from and after the first day of January, one thousand seven hundred and eighty seven.

Commencement of act.

From Rev.
Bills of 1779,
ch. XXIX.

CHAP. LXVII.

An act providing that wrongful alienations of lands shall be void so far as they be wrongful.

Alienations
and warran-
ties of land,
to pass only
what grantor
might lawfully
convey.

I. *BE it enacted by the General Assembly, That* all alienations and warranties of lands, tenements, and hereditaments, made by any, purporting to pass or assure a greater right or estate than such person may lawfully pass or assure, shall operate as alienations or warranties of so much of the right and estate in such lands, tenements, or hereditaments, as such person might lawfully convey; but shall not pass or bar the residue of the said right or estate purported to be conveyed or assured.

How far
heirs barred,
or bound to
recompense
tenant

II. But if the deed of the alienor doth mention that he and his heirs be bound to warranty, and if any heritage descend to the demandant of the side of the alienor, then he shall be barred for the value of the heritage that is to him descended. And if in time after any heritage descend to him by the same alienor, then shall the tenant recover against him of the seizin warranted by judicial writ, that shall issue out of the rolls of the justices, before whom the plea was pleaded, to re-summon his warranty, as before hath been done in cases where the warrantor cometh into the court, saying, that nothing descended from him by whose deed he is vouched.

Commence-
ment of act.

III. This act shall commence and be in force from and after the first day of January, one thousand seven hundred and eighty-seven.

From Rev.
Bills of 1779,
ch. XXXV.

CHAP. LXVIII.

An act to prevent the circulation of private bank notes.

Penalty for
circulating
private bank
notes, pay-
able to bearer.

I. *BE it enacted by the General Assembly, That* it shall not be lawful for any person to offer in payment, a private bank bill or note for money, payable

to bearer, and whosoever shall offend herein, shall not only forfeit to the informer ten times the value of the sum mentioned in such bill or note, but may be apprehended by warrant of a justice, and upon due proof of the fact made to him, or upon his own acknowledgment thereof, be bound to the good behaviour, or if he afterwards offend in the like manner, it shall be deemed a breach of the condition of the recognizance.

III. This act shall commence and be in force from Commence-
ment of act. and after the first day of January, one thousand seven hundred and eighty-seven.

CHAP. LXIX.

From Rev.
Bills of 1779,
ch. XXXVII.

An act to prevent losses by pirates, enemies, and others, on the high seas.

I. BE it enacted by the General Assembly, That Premium for
defending
vessel against
pirates and
enemies, how
adjudged and
paid. when any ship or other vessel of this commonwealth shall have been defended against pirates or enemies, and brought to her port of delivery, and in making such defence any of the officers or seaman shall have been killed or wounded, the judges of the admiralty, on the petition of the master or seamen, shall call unto them four or more good and substantial merchants, and by advice with them, shall levy on the respective adventurers and owners of the ship or other vessel and goods, by process out of the said court, such sums of money as themselves and the said merchants, by plurality of voices, shall judge reasonable, not exceeding two pounds per cent. of the freight, ship or other vessel, and goods, according to the first cost of the goods, and shall distribute the same among the captain, master, officers and seamen of the ship or other vessel, and the widows and children of the slain, proportioning the same according to their best judgment, and having special regard to the said widows and children, and to

such as shall have been wounded. And if the commander, master, or other officer, or any seaman or mariner, in any vessel carrying guns and arms, shall not, when attacked by any pirate or enemy, fight, and endeavour to defend themselves and their vessel, or shall utter any words to discourage the other mariners from defending the same, and by reason thereof the said vessel shall fall into the hands of such pirate or enemy, such offender shall forfeit all wages due to him to the owner, and shall suffer imprisonment at the discretion of a jury, if in their opinion such vessel might have been saved by a defence.

Mutiny on
board vessels
how suppressed.

II. If any combination shall be set on foot for running away with, or destroying any vessel, or the goods and merchandizes therein laden, the captain, commander, or master, on due proof thereof, shall give a reward of fifty dollars, if the vessel be of one hundred tons or under, and seventy-five dollars if of greater burthen, to such person as shall first make discovery thereof; payment to be made at the port where the wages of the seamen ought next to be paid, and to be reimbursed as in other cases of salvage.

Commence-
ment of act.

III. This act shall commence and be in force from and after the first day of January, one thousand seven hundred and eighty-seven.

From Rev.
Hills of 1779,
ch. XXXIX.

CHAP. LXX.

An act concerning estrays.

Method of
taking up and
appraising
estrays.

I. *BE it enacted by the General Assembly, That it shall be lawful for any person by himself or his agent, to take up any estray on his own land, and having taken it, he, or his agent, shall forthwith give information thereof to some justice of the peace for the said county, who shall thereupon issue his warrant to three disinterested freeholders of the neighbourhood, commanding them, having been first duly sworn, to view and appraise such estray, and certify the valuation under their hands, together with a particular description*

of the kind, marks, brand, stature, colour, and age; which certificate shall by the justice be transmitted to the clerk of the county court within twenty days, and by such clerk entered in a book to be kept for that purpose, for which he may demand and take ten pounds of tobacco, to be paid down by the taker up.

II. The clerk shall moreover cause a copy of every such certificate to be publicly affixed at the door of his court-house, on two several court-days next after he receive the same, for which, and a certificate thereof, he shall receive the like fee as for entering the same in the book. How advertised.

III. If the valuation shall be under twenty shillings, and no owner shall appear until notice shall have been twice published, as aforesaid, the property shall then be vested in the owner of the land, on which such estray was taken; and if the valuation shall exceed twenty shillings, such owner shall, within three months after the appraisement, send to the public printer a copy of the certificate, to be advertised three times in the Virginia Gazette, with notice of the place where such estray is, for which the printer may demand four shillings for each estray; and if no owner appears to claim such estray within a year and a day after the publication, the property shall from thenceforth be vested in the owner of the lands whereon it was taken. But the former owner, in either case, may at any time, within five years afterwards, upon proving his property, demand and recover the valuation money, deducting therefrom the clerk and printer's fees, and five shillings for every horse or head of neat cattle, and one shilling for every other beast. When property vested in taker up.

Valuation money reserved for proprietor.

IV. If any person shall take up a boat or other vessel adrift, he shall in like manner make application to a justice of one of the adjacent counties, for his warrant to have the same valued and described by her kind, burthen and built, and shall proceed in all other respects, and have the same benefit as before directed in the case of estrays. *Provided always,* That if after notice published as aforesaid, any estray shall happen to die, or by any casualty get out of the possession of the person who took the same up, without his or her default, such taker up shall not be answerable for the same, or for the valuation thereof; nor shall any taker Boats and vessels adrift, how proceeded on.

Provision in case estray should die.

up be answerable for any boat or other vessel lost as aforesaid.

Commence-
ment of act.

V. This act shall commence and be in force from and after the first day of January, one thousand seven hundred and eighty-seven.

CHAP. LXXI.

From Rev
Bills of 1779
ch. XL.

An act for the restitution of stolen goods.

Restitution
of stolen
goods, to be
ordered by
court, before
whom convic-
tion.

I. *Be it enacted by the General Assembly*, That if any felon do rob or take away any money or goods, or chattels, from any of the citizens of this commonwealth or from any person travelling through or making a temporary stay within the same, from their person or otherwise, within this commonwealth, and thereof the said felon be indicted, and after arraigned of the same felony, and found guilty thereof, or otherwise attainted by reason of evidence given by the party so robbed, or owner of the said money, goods, or chattels, or by any other by their procurement, that then the party so robbed, or owner, shall be restored to his said money, goods, and chattels: And that the justices before whom any such felon shall be found guilty, or otherwise attainted by reason of evidence given by the party so robbed, or owner, or by any other by their procurement, have power by this present act, to award from time to time, writs of restitution for the said money, goods, and chattels.

Commence-
ment of act.

II. This act shall commence and be in force from and after the first day of January, one thousand seven hundred and eighty-seven.

CHAP. LXXII.

From Rev.
Bills of 1779,
ch. XII.

*An act for preventing infection of the
horned cattle.*

1. *BE it enacted by the General Assembly, That the driving of cattle into, or through the commonwealth, or any part thereof, if it be not to remove them from one plantation to another of the same owner, or to be used at his house, shall be deemed a nuisance, unless the driver shall produce to any freeholder of a county wherein the drove is passing, who shall require it, a bill of health, signed by some justice of the commonwealth, containing the number of the drove, with descriptions of the cattle, by their sexes, flesh marks, and ear marks, or brands, and certifying them to be free from distemper; or, notwithstanding he may produce such bill of health, unless he shall forthwith obtain another at the like requisition, if any such freeholder make affidavit, before a justice, that he hath cause to suspect some of the cattle to be distempered. Such bill of health shall not be given, in either case, before two disinterested freeholders, appointed by warrant of a justice, shall have viewed the cattle, and reported them to be free from distemper. A freeholder refusing to obey such warrant, shall be amerced by the justice granting such warrant, in any sum not exceeding twenty five shillings. If the cattle appear by the report to be distempered, the owner may impound them; and if he refuse to do so, or if he suffer them to escape from the pound, before a justice shall have certified that they may be removed without annoying others, the same justice, or some other to whom information shall be given of the fact, shall, by his order, cause them to be slaughtered, and their carcasses, with the hides on, but so cut or mangled that none may be tempted to take them up and flay them, to be buried four feet deep.—Those who shall be employed in executing such orders, shall receive five shillings for every head so buried, to be paid by the county wherein it shall happen; and every one appointed by the order, who shall refuse or neglect to execute it, shall be amerced in the sum of five shillings for every head so ordered to be buried.—*

Bills of health to be produced, by persons driving cattle into or through this state.

How obtained.

Proceedings where cattle found distempered.

Owners of distempered cattle to confine them; & when dead, bury them.

Every one shall so restrain his distempered cattle, or such as are under his care, as that they may not go at large off the land to which they belong, and when they die, shall bury them with their hides, in manner aforesaid; and knowingly offending in either of those instances, shall be amerced in the sum of twenty shillings for every head they shall neglect so to bury.

Commencement of act. 11. This act shall commence and be in force from and after the first day of January, one thousand seven hundred and eighty-seven.



CHAP. LXXIII.

From Rey. Bills of 1779, ch. XLII.

An act for improving the breed of horses.

Penalty for suffering a stoned horse to run at large.

I. *BE it enacted by the General Assembly, That no* person shall suffer a stoned horse of the age of two years, whereof he is owner, or hath the keeping, to run at large out of the enclosed ground of the owner or keeper; and whosoever shall wilfully or negligently do so, after having been admonished to confine such horse, shall forfeit and pay five pounds, to him who will sue for it, and double that sum for any such transgression after one conviction; and, if after a second conviction, the same horse be found so running at large, it shall be lawful for the person who will take him up, to retain him to his own use.

When forfeited.

Commencement of act. 11. This act shall commence and be in force from and after the first day of January, one thousand seven hundred and eighty-seven.

CHAP. LXXIV.

From Rev.
Bills of 1779,
ch. XLV.

*An act for licensing and regulating
taverns.*

1. *BE it enacted by the General Assembly, That it* shall not be lawful for any one to keep a tavern, before they shall have obtained a license for that purpose, from the court authorized to grant the same; and if any one, without such license, open a tavern, or sell by retail, wine, beer, cyder, or rum, brandy, or other spirituous liquor, or a mixture thereof, to be drank in or at the place where it shall be sold, or in any booth, arbour or stall, such offence shall be deemed a breach of the good behaviour, and he or she so offending, shall moreover forfeit and pay the sum of ten pounds current money, to be applied towards lessening the county levy: Which license shall be granted only to such as the court shall think able to provide for the accommodation of travellers, and in such places as are most convenient for them; and shall be in force one year, and from the end thereof until the next session. If guests or others play at any game, contrary to law, in a tavern, and the keeper thereof shall not endeavour to hinder them, and if they persist, to give information of the offence, within one month thereafter, to the court, or two justices of the peace, his license shall be revoked by the court, unless, being summoned to shew cause to the contrary, he appear, and prove such facts as induce them to believe, not only he did not know of, but moreover that he had no reason to suspect such playing. The prices to be paid for diet, liquors, lodging, provender, stableage, and pasture, at taverns, shall be rated once a year by the court, of which rates a copy, within one month afterwards, as they shall be set, or from time to time altered, attested by the clerk of the court, shall be set up by every keeper of a tavern, exposed in some public room thereof, not more than six feet above the floor, and so long as he neglect this, after the month, he shall have no right to demand any price for a rated article. Neither shall the keeper of a tavern recover more than twenty-five shillings for liquor sold, within the space of a year, to one person, residing less than twenty miles from such tavern, and drunk, or sold to be drunk in the

None to keep
tavern with-
out license.

Penalty.

How license
obtained.

Gaming at ta-
vern.

Tavern rates

Limitation of
recovery for
liquor sold.

place where it is kept: and a written contract or bond, or other speciality, for payment, delivery, or security, of money, or other thing, for performance of any work or service, whereof the whole or any part shall have become due for liquors so sold, shall be void.

Commence-
ment of act.

II. This act shall commence and be in force from and after the first day of January, one thousand seven hundred and eighty-seven.

CHAP. LXXV.

From Rev.
Bills of 1779,
ch. XLVI.

An act concerning public roads.

County courts
authorised to
open new
roads, or al-
ter former
ones.

I. *BE it enacted by the General Assembly.* That where any person or persons shall make application to any county court, to have a new road opened, or a former one altered, within their county, for the convenience of travelling to their county court-house, to any public warehouse, landing, ferry, mill, lead or iron works, or to the seat of government, they shall appoint three or more fit and able persons, to be sworn before a justice of the peace, to view the ground along which such road is proposed to be conducted, and to report to them truly and impartially the conveniences and inconveniences which will result, as well to individuals as to the public, if such way shall be opened; and where the application is to alter a former road, they shall also view the former road, and report in like manner, the comparative conveniences and inconveniences thereof.

Proceedings
thereon.

II. Upon the return of the said viewers, if the court shall be of opinion that the road applied for will be convenient, they shall order summonses to be issued to the proprietors and tenants of the lands, through which the same is proposed to be conducted, if they be found within the county, and if not, then to their agents therein, if any they have, to shew cause why such road should not be opened; upon the return of which summons, if any proprietor or tenant so desire, the said court shall order their clerk to issue a writ in the na-

ture of a writ *ad quod damnum*, to be directed to the sheriff, commanding him to summon and empanel twelve able and discreet freeholders of the vicinage, no ways related to either party, to meet at some certain place on the ground through which the said road is proposed to be conducted, and on a certain day to be named by the court, and inserted in the said writ, of which notice shall be given by the sheriff, to the said proprietors or tenants, or their agents, as before directed, if they were not present in court at the time of the order made; which freeholders, taking nothing (on pain of being discharged from the inquest, and immediately imprisoned by the sheriff) either of meat or drink, from any person whatever, from the time they shall come to the said place until their inquest sealed, shall be charged by the said sheriff impartially, and to the best of their skill and judgment to view the lands through which the said road is proposed to be conducted, and say to what damage it will be of to the several and respective proprietors and tenants, who desired such writ, taking into estimation as well the use of the lands to be laid open for such road, as the additional fencing, which will thereby be rendered necessary; and if the said inquest cannot be compleated in one day, the sheriff shall adjourn the said jurors from day to day, until the same be compleated: Which inquest, sealed by the said jurors, together with the writ, shall be returned to the court, who thereupon, as well as upon other evidence, shall proceed to consider whether, all circumstances weighed, it be better that the said road shall be opened, and if they be of opinion that the same shall be opened, they shall levy on their county, at their next levy to be laid, the damages so found, and the costs of the inquest, and direct them to be paid to those respectively entitled thereto. But if they shall be of opinion that the said road ought not to be opened, the costs of such inquest shall be adjudged against the party applying for the said road. But it shall not be lawful for any court to order a road to be opened through any lot of land in any town, without the consent of the owner and tenant thereof.

III. The several courts shall also divide all the public roads into precincts, and as often as it shall be necessary, appoint a surveyor over every precinct, whose duty it shall be to superintend the road in his precinct,

To divide roads into precincts, & appoint surveyors.

and see that the same be cleared and kept in good repair, which surveyor shall continue in office until another shall be appointed by the said court in his stead.

Who to work
on roads.

IV. All male labouring persons, of the age of sixteen years or more, except such as are masters of two or more male labouring slaves, of the age of sixteen years or more, shall be appointed by the court to work on some public road: For every person so appointed, who, when required by the surveyor placed over him, shall, without legal cause or disability, fail to attend, with proper tools for clearing the road, or shall refuse to work when there, or to find some other person equally able, to work in his room, the sum of seven shillings and six pence for every day's offence, shall be paid by himself, if he be a freeman of full age, if an infant, then by his parent, guardian, or master, and if a slave or servant, then by his overseer; if he be under one, or otherwise, by his master.

Surveyors,
how notified.

V. The clerk of every county court shall within ten days after the appointment of any surveyor of a road, deliver a copy of the order to the sheriff of the county, under the penalty of fifteen shillings; and the sheriff, within fifteen days after the receipt of such order, shall deliver the same to the surveyor, under the penalty of fifteen shillings. And each clerk shall moreover, once in every year, fix up in the court-house, a list of the names and precincts of all the surveyors of roads in his county, under the penalty of fifty shillings for every neglect.

Duty of sur-
veyors.

VI. Every surveyor of a road shall cause the same to be constantly kept well cleared and smoothed, and thirty feet wide at the least; and at the fork or crossing of every public road, shall cause to be erected, and kept in repair from time to time, a stone, or otherwise an index on a post or tree, with plain inscriptions thereon, in large letters, directing to the most noted place to which each of the said roads shall lead, and may take stone or wood for that purpose from any adjoining land: and for the expence of setting up and inscribing such stones, posts, or indexes, and keeping them in repair, the surveyor shall be reimbursed by the county court in their next succeeding levy; and where bridges and causeys are necessary, the surveyor shall cause them to be made, twelve feet broad at the least, convenient and safe, and shall keep the same in repair, and for that purpose may cut and take from the lands of any per-

Sign posts.

Bridges and
causeys.

son adjoining, such, and so much timber, earth, or stone, as may be necessary, the same being first viewed and valued by two honest house-keepers appointed and sworn for that purpose by a justice of the peace, unless the owner shall freely give such timber, stone, or earth, for that use; but where a road leads through a city or town, the surveyor shall not take any timber, stone, or earth, from any lot within the town, without the permission of the owner, but shall take the same from the lands nigh or adjacent to the said town, where it will do the least injury to the proprietor; and where the assistance of wheel-carriages is necessary for making or repairing any causeys, any justice of peace may issue his warrant, under his hand and seal, for empowering the surveyor to impress such necessary carriages, draught horses; or oxen, with their gear and driver, belonging to any person who, or their servants or slaves, are appointed to work on the road, and appointing two honest house-keepers, who, being sworn, shall value by the day, the use of such carriages, draught horses, oxen, and driver, which valuation, with a certificate from the surveyor how many days the said things were employed in the work, shall entitle the owner to an allowance for the same in the next county levy. And in the like manner shall the owner of timber, stone, or earth, taken for bridges or causeys, be entitled to the valuation thereof in the next county levy, upon a certificate from the two house-keepers who value the same. Every surveyor of a road, who fails to do his duty as aforesaid, shall forfeit fifteen shillings for every offence.

Materials for,
how procur-
ed.

Penalty on
surveyors for
neglect.

VII. Where a bridge or causey shall be necessary, and the surveyor, with his assistants, cannot make or maintain the same, the court of the county are empowered and required to contract for the building and repairing such bridge or causey, and to levy the charge thereof in their county levy. And where such bridge or causey shall be necessary from one county to another, the court of each county shall join in the agreement for building and repairing the same; and the charge shall be defrayed by both counties, in proportion to the public tax or assessment paid by each. Upon every such contract or agreement, bond and security shall be given by the undertaker, payable to the governor and his successors, for the use of the county or

How bridges
and causeys
are to be
built, and re-
paired, with-
in the county,

counties, as the case shall be, with condition for performing the same, and may be prosecuted at the costs, and for the benefit of the county or counties, or any person sustaining a loss by the breach thereof, as often as it shall happen, until the whole penalty of the bond shall be paid. And all such contracts made by the county courts, or others appointed by them, shall be available and binding upon the justices and their successors, so as to entitle the undertaker to his stipulated reward in the county levy, or to a recovery thereof with costs, by action of debt, against the justices refusing to levy the same.

When ever
any place be-
tween two
counties.

VIII. When the justices of one county shall judge a bridge or causey over any place between them and another county to be necessary, they shall notify the same to the justices of such other county, and require them to appoint three persons to meet at the said place on a certain day to be named by the court requiring the same, to confer with three others, to be appointed by the said requiring court, and agree on the manner and condition of executing the same; which six persons, or so many of them as meet, being not fewer than three, shall have power to agree on the manner and conditions of doing the said work, and to see that the same be done: And if the court so required shall fail to appoint persons to act on their behalf, or to do what on their part should be done towards executing and paying for the said work, the justices of the court which made the requisition shall apply to the general court for a writ of mandamus, to be directed to the justices of the other court, commanding them to do, what on their part they ought to have done, and have failed to do, or to signify to them cause to the contrary thereof; upon the return of which writ, the general court, if they shall be of opinion that the work is unnecessary, or that other sufficient cause is returned, shall quash the writ; or if they think otherwise, shall cause such further proceedings to be had as are usual in other cases of mandamus issuing from the said court: And the like method of proceeding by way of mandamus shall be used, where the justices of one county shall think it necessary to open a road to their county line, for the convenience of passing to some public place in another, and the justices of such other shall refuse to continue the road through their county.

IX. If any person shall fell a tree into a public road, or into any stream of water, whereon there shall be any public bridge, and shall not remove the same within forty-eight hours, or shall kill a tree within the distance of fifty feet from the road, or shall cut, pull up, destroy, or deface, any stone, or post, erected for the direction of travellers, or the indexes or inscriptions thereon, it shall be deemed a nuisance. Penalty for felling a tree into a road or killing a tree near it.

X. Every free man, of full age, so offending, or the parent, master, or owner, of every child, apprentice, servant, or slave, so offending, with his or her knowledge, shall forfeit and pay ten pounds for every offence. And where any fence shall be made across a public road, the owner or tenant of the land shall pay ten shillings for every twenty-four hours the same shall be continued. For making a fence across a road.

XI. The owner or occupier of every dam over which a public road passes, shall constantly keep such dam in repair, at least twelve feet wide at the top, through the whole length thereof, and shall keep and maintain a bridge of like breadth, with strong rails on each side thereof, over the pier-head, flood-gates, or any waste, cut through or round the dam, under the penalty of ten shillings for every twenty-four hours failure; but where a mill-dam shall be carried away or destroyed by tempest, or accident, the owner or occupier thereof shall not be liable to the said penalties from thenceforth, until one month after such mill shall have been so repaired as to have ground one bushel of grain. Roads over mill dams, how to be kept.

XII. All the penalties in this act, not otherwise directed, shall be one moiety to the informer, and the other to the use of the county, recoverable with costs, on warrant, petition, or action, as the case may be. Any justice, who, upon his own view, shall discover a road, bridge, causey, or mill-dam, as aforesaid, out of repair, shall issue a warrant against the surveyor, or other delinquent, and if no reasonable excuse be made for such default, may give judgment for the penalty and costs, not exceeding twenty-five shillings, or such offenders may be presented by the grand-juries; in all which cases of conviction, on view of a justice, or presentment, or on private informations to justices, where there shall be no evidence to convict the offender but the informer's own oath, the whole penalties shall be to the use of the county, towards lessening the levy there- Penalties how recovered and appropriated.

of, and shall be annually collected and accounted for by the sheriff, in the same manner as county levies; and to enable the sheriff to make such collection, every justice, immediately on conviction of any offender, where the penalty is to be to the county, shall certify the same to the clerk of his county court, who shall yearly, before the first day of March, deliver to the sheriff a list of all the offenders so certified, and of all others convicted in court, within one year preceding of any offence against this act.

Limitation of prosecution. XIII. Provided, that prosecutions for any offence herein mentioned shall be commenced within six months after the offence committed, and not after.

Commencement of act. XIV. This act shall commence and be in force from and after the first day of January, one thousand seven hundred and eighty-seven.

From Rev.
Bills of 1779.
ch. XLIX.

CHAP. LXXVI.

An act for unlading ballast and burial of dead bodies from on board ships.

Ballast masters, how appointed. I. *BE it enacted by the General Assembly,* That the court of every county or corporation, adjacent to any navigable river or creek, shall from time to time, as vacancies happen, appoint one or more ballast-masters, residing near to the places where vessels usually ride in such river or creek, to be overseers and directors of the delivery and unloading of ballast from on board any ship or vessel within a certain district, to be by them ascertained.

Their duty. II. Every ballast-master so appointed, upon receiving notice from the master or chief officer on board of any ship or vessel within his district, that ballast is to be discharged from such vessel, shall go on board the same, and attend until the whole ballast is delivered, which he shall see brought on shore and laid at some convenient place near the vessel, where it may not ob-

struct navigation, nor be washed into the channel, shall thereupon give such master or officer a certificate that the ballast hath been duly unladen from on board such vessel; for which service he shall receive five shillings per day, to be paid by the master or chief officer to whom such certificate is granted.

III. Every ballast-master failing to do his duty, according to this act, shall forfeit twenty pounds for each **Penalty for neglect.** default, in which case, or if there be no ballast-master, the naval-officer of the district, shall, under the like penalty, perform the same duty.

IV. Every master or chief officer of a ship or vessel, having ballast to unlade, shall give notice in writing, of the time he purposes to land the same, to the ballast-master of the district; and shall produce to the naval-officer, at the time of his clearing out, a certificate of his having unladen his ballast, according to this act. And if any master or chief officer on board of any ship or vessel, shall presume to land or cast overboard any ballast therefrom, without giving such notice, or contrary to the orders he shall receive from the ballast-master of the district, or shall fail to produce a certificate of his having duly landed his ballast, to the naval-officer at the time of his clearing out, he shall forfeit fifty pounds for every offence or failure; and, in any suit to be brought for the said penalty, the clerk shall endorse on the writ that bail is to be required, and the court may rule the defendant to give special bail, if they see cause so to do. **Notice of intention to unlade ballast.** **Certificate.** **Penalties.**

V. When any person shall die on board of any ship or vessel, within this state, the master thereof shall cause the dead body to be brought on shore, and there buried, at least four feet deep above high-water mark, or be subject to the penalty of fifty pounds; in any suit for which, the defendant may be ruled to give special bail, and the clerk shall endorse on the writ that bail is required. **Dead bodies from on board ships, how to be buried.**

VI. This act shall commence and be in force from and after the first day of January, one thousand seven hundred and eighty-seven. **Commencement of act.**

From Rev.
Bills of 1779,
ch. LI.

CHAP. LXXVII.

An act concerning slaves.

Who declar-
ed slaves.

I. *BE it enacted by the General Assembly, That no* person shall henceforth be slaves within this commonwealth, except such as were so on the first day of this present session of assembly, and the descendants of the females of them. Slaves which shall hereafter be brought into this commonwealth, and kept therein one whole year together, or so long at different times as shall amount to one year, shall be free.

Slaves here-
after introdu-
ced, to be
free.

Negroes and
mulattoes,
how far wit-
nesses.

II. No negro or mulatto shall be a witness, except in pleas of the commonwealth against negroes or mulattoes, or in civil pleas wherein negroes or mulattoes alone shall be parties.

Slaves not to
go from home
without a
pass.

III. No slave shall go from the tenements of his master or other person with whom he lives, without a pass, or some letter or token whereby it may appear that he is proceeding by authority from his master, employer, or overseer: If he does, it shall be lawful for any person to apprehend and carry him before a justice of the peace, to be by his order punished with stripes or not, in his discretion.

Punishment.

Slaves not to
keep arms.

IV. No slave shall keep any arms whatever, nor pass unless with written orders from his master or employer, or in his company with arms, from one place to another. Arms in possession of a slave contrary to this prohibition, shall be forfeited to him who will seize them. Riots, routs, unlawful assemblies, trespasses, and seditious speeches, by a slave or slaves, shall be punished with stripes, at the discretion of a justice of the peace, and he who will may apprehend and carry him, her, or them, before such justice.

Riots, unlaw-
ful assem-
bly, &c. how
punishable.

Who may
bring slaves
into this com-
monwealth.

V. *Provided, That nothing in this act contained, shall be construed to extend to those who may incline to remove from any of the United States and become citizens of this; if within ten days after such removal he or she shall take the following oath before some justice of the peace of this commonwealth: "I A B. do swear that my removal into the state of Virginia, was with no intent of evading the laws for preventing the further importation of slaves, nor have I brought*

with me any slaves with an intention of selling them, nor have any of the slaves which I have brought with me been imported from Africa, or any of the West-India islands, since the first day of November, 1778. So help me God." Nor to any persons claiming slaves by descent, marriage, or devise; or to any citizens of this commonwealth, being now the actual owners of slaves within any of the United States and removing such hither; nor to travellers and others making a transient stay, and bringing slaves for necessary attendance, and carrying them out again.

VI. *And be it further enacted*, That no person ^{Penalty for} whatsoever shall buy, sell, or receive of, to or from a ^{dealing with} slave, any commodity whatsoever without the leave or consent of the master, owner, or overseer of such slave. ^{slaves.} And if any person shall presume to deal with any slave without such leave or consent, he or she so offending, shall forfeit and pay to the master or owner of such slave four times the value of the thing so bought, sold, or received, to be recovered with costs, by action upon the case, in any court of record within this commonwealth; and shall also forfeit and pay the further sum of five pounds, to any person who will sue for the same, to be recovered with costs, by summons and petition, in the same manner as other debts not exceeding five pounds, nor under twenty-five shillings are, or receive on his or her bare back thirty-nine lashes well laid on at the public whipping-post, but shall nevertheless be liable to pay the costs of such summons and petition.

VII. This act shall commence and be in force from ^{Commence-} and after the first day of January, one thousand seven ^{ment of act.} hundred and eighty-seven.

From Rev.
Bills of 1779,
ch. LIV.

CHAP. LXXVIII.

*An act declaring what persons shall
be deemed mulattoes.*

Who deemed
mulattoes.

1. *BE it enacted by the General Assembly, That* every person of whose grandfathers or grandmothers any one is, or shall have been a negro, although all his other progenitors. except that descending from the negro, shall have been white persons, shall be deemed a mulatto; and so every person who shall have one-fourth part or more of negro blood, shall, in like manner, be deemed a mulatto.

Commence-
ment of act.

II. This act shall commence and be in force from and after the first day of January, one thousand seven hundred and eighty seven.

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From Rev.
Bills of 1779,
ch. LVI.

CHAP. LXXIX.

An act concerning aliens.

In case of
war between
the U. States,
and foreign
powers, how
their mer-
chants and
people shall
be treated.

1. *BE it enacted by the General Assembly, That* in case that war arise betwixt the United States of America and any foreign state, the merchants and people of such state, their families, agents, and servants, found in this commonwealth at the beginning of the war, shall not be attached either in their body or goods because of such war, but shall be warned by proclamation from the governor, taking thereon the advice of the council of state, that they shall depart the commonwealth with their families, agents and servants aforesaid, and their goods, freely within forty days after the proclamation made and published. In the mean time they shall not be impeached, nor let of their passage, or of making their profit of the same merchandizes, if they will sell them. And in case that for default of wind or of ship, or for sickness, or for other evident cause, they cannot depart the commonwealth within so short a time, then they shall have

other forty days, or so much more as the necessity of their affairs may require, and the governor and council may think it safe to allow. and in the mean time may sell their merchandise as afore is said.

II. But if before their departure credible intelligence shall be brought to the governor, that the merchants or people of any of the United States be evil treated in the land making war against us, then they shall be attached without harm of body or goods, until the truth of the matter be certainly known unto the governor and council of state: And if the merchants and people of the United States be well treated there, theirs shall be likewise with us: And if otherwise, theirs shall be treated or demeaned within the commonwealth, in the manner, form, and condition as the merchants or people of the United States be treated or demeaned in the land making war against us.

When retaliation may be resorted to,

III. This act shall commence and be in force from and after the first day of January, one thousand seven hundred and eighty-seven.

Commencement of act.

CHAP. LXXX.

An act directing what prisoners shall be let to bail.

From Rev. Bills of 1779. ch. LVIII.

I. FOR ascertaining in what cases persons apprehended on suspicion of felony shall or shall not be admitted to bail: *Be it enacted by the General Assembly,* That those shall be let to bail who are apprehended for any crime not punishable in life or limb: And if the crime be so punishable, but only a light suspicion of guilt fall on the party, he shall in like manner be bailable: But if the crime be punishable in life or limb, or if it be manslaughter, and there be good cause to believe the party guilty thereof, he shall not be admitted to bail.

What prisoners may be admitted to bail, what not

II. No person shall be bailed after conviction of any felony.

Penalty for
admitting or
refusing bail
improperly.

III. If any justice let any go at large on bail who is notailable, or refuse to admit to bail any who have right to be so admitted, after they shall have offered sufficient bail, or require excessive bail, he shall be amerced at the discretion of a jury.

Commence-
ment of act.

IV. This act shall commence and be in force from and after the first day of January, one thousand seven hundred and eighty-seven.

From Rev.
Bills of 1779,
ch LVII.

CHAP. LXXXI.

*Magna Char-
ta.*

An act declaring that none shall be condemned without trial, and that justice shall not be sold or deferred.

Trial by jury,
and equal and
speedy jus-
tice secured.

I. *BE it enacted by the General Assembly, That* no freeman shall be taken or imprisoned, or be dis-seized of his freehold, or liberties or free customs, or be outlawed or exiled, or any otherwise destroyed, nor shall the commonwealth pass upon him, nor condemn him; but by lawful judgment of his peers, or by the laws of the land. Justice or right shall not be sold, denied, or deferred, to any man.

Commence-
ment of act.

II. This act shall commence and be in force from and after the first day of January, one thousand seven hundred and eighty-seven.

CHAP. LXXXII.

An act concerning mill-dams and other obstructions of water courses.

From Rev
Bills of 1779,
ch. XLVIII.

1. *BE it enacted by the General Assembly, That* Proceedings, on erecting mills.

when any person owning lands on one side of any water course, the bed whereof belongeth to himself, or to the commonwealth, and desiring to build a water grist-mill on such lands, and to erect a dam across the same, for working the said mill, shall not himself have the fee-simple property in the lands on the opposite side thereof, against which he would abutt his said dam, he shall make application for a writ of *ad quad damnum*, to the court of the county wherein the lands proposed for the abutment are, having given ten days previous notice to the proprietor thereof, if he be to be found in the county, and if not, then to his agent therein, if any he hath, which court shall thereupon order their clerk to issue such writ, to be directed to the sheriff, commanding him to summon and empannel twelve fit persons to meet upon the lands so proposed for the abutment, on a certain day, to be named by the court, and inserted in the said writ, of which notice shall be given by the sheriff, to the said proprietor or his agent, as before directed, if neither of them were present in court at the time of the order made; which freeholders taken, shall be charged by the said sheriff, impartially, and to the best of their skill and judgment, to view the said lands so proposed for an abutment, and to locate and circumscribe, by certain metes and bounds, one acre thereof, having due regard therein to the interests of both parties, and to appraise the same according to its true value, to examine the lands above and below, of the property of others, which may probably be overflowed, and say to what damage it will be of to the several proprietors, and whether the mansion house of any such proprietor, or the offices, curtilage, or garden, thereunto immediately belonging, or orchards, will be overflowed; to enquire whether, and in what degree, fish of passage and ordinary navigation will be obstructed; whether by any, and by what means, such obstruction may be prevented; and whether in

Writ of *ad quad damnum*.

Notice.

Jury.

Inquest, what to contain.

their opinion the health of the neighbours will be annoyed by the stagnation of the waters. And the inquest so made and sealed by the said jurors, together with the writ, shall be returned by the said sheriff to the succeeding court, who shall thereupon order summonses to be issued to the several persons, proprietors or tenants of the lands so located, or found liable to damage, if they be to be found within the county, and if not, then to their agents therein, if any they have, to shew cause why the party applying should not have leave to build the said mill and dam. And in like manner, if the person proposing to build such mill and dam shall have the fee-simple property in the lands on both sides the stream, yet application shall be made to the court of the county wherein the mill-house will stand, for a writ to examine as aforesaid what lands may be overflowed, and say to what damage it will be of to the several proprietors, and whether the mansion house of any such proprietor, or the offices, curtilage, or garden, thereto immediately belonging, or orchards, will be overflowed; also, whether, and in what degree fish of passage and ordinary navigation will be obstructed thereby, whether by any, and by what means, such obstruction may be prevented, and whether in their opinion the health of the neighbours will be annoyed by the stagnation of waters; which writ shall be directed, executed and returned, as prescribed in the former case. And if on such inquest, or on other evidence, it shall appear to the court that the mansion house of any proprietor, or the offices, curtilage, or garden, thereto immediately belonging, or orchards, will be overflowed, or the health of the neighbours be annoyed, they shall not give leave to build the said mill and dam; but if none of these injuries are likely to ensue, they shall then proceed to consider whether, all circumstances weighed, it be reasonable that such leave should be given, and shall give or not give it accordingly; and if given, they shall lay the party applying under such conditions for preventing the obstruction, if any there will be, of fish of passage and ordinary navigation, as to them shall seem right.

Leave to
build, when
granted.

Payment of
valuation money.

II. And if the party applying obtain leave to build the said mill and dam, he shall, upon paying respectively to the several parties entitled, the value of the acre located, and the damages which the jurors find will be

done by overflowing the lands above or below, become seized in fee-simple of the said acre of land. But if he shall not, within one year thereafter, begin to build the said mill, and finish the same in three years, and afterwards continue it in good repair for public use, or in case the said mill or dam be destroyed, if he shall not begin to rebuild it within one year after such destruction, and finish it within three years, the said acre of land shall revert to the former proprietor, and his heirs, unless at the time of such destruction of the said mill or dam the owner thereof be an infant, feme covert, imprisoned, or of unsound mind, in which case he shall be allowed the same terms for beginning and completing the said mill or dam after such disability removed.

Effect of not building, or re-building, in time.

III. The inquest of the said jurors nevertheless, or opinion of the court, shall not bar any prosecution or action, which any person would have had in law, had this act never been made, other than for such injuries as were actually foreseen and estimated by the said jury.

Inquest no bar to damages not foreseen.

IV. It shall be lawful for the owner or tenant of any such mill, or of any other grist-mill, to take for toll one eighth part, and no more, of all grain of which the remaining part shall be ground into meal, and one sixteenth part, and no more, of that, the remainder of which shall be ground into hominy or malt.

Toll.

V. No owner or tenant of any mill, not having fifty acres of land adjoining thereto, shall keep any swine uninclosed at such mill, on pain that the same shall be liable to be taken and converted to his own use by the proprietor or tenant of any adjacent lands, or by any other person authorized by them.

Who may keep hogs at mills.

VI. Where the owner of any mill now standing, or licensed to be built, hath by any act of assembly been compelled to make locks, slopes, or opening, for navigation, or the passage of fish, the same shall be continued under the conditions imposed by such act, and shall be deemed sufficient in law, so long as the dam now standing, or building, shall remain: But it shall not be lawful to rebuild such dam in future, but on enquiry by jury into the obstructions of fish and navigation, and the means of preventing the same, and the final order of the court, to be applied for and conducted in the manner before directed in other cases.

Locks and slopes.

Hedges, weirs
and other ob-
structions in
watercourses
prohibited

VII. It shall not be lawful for any person to erect or fix in any water-course, any dam, hedge, weir, seine, drag, or other stoppage, whereby navigation, or the passage of fish, may be obstructed, save only for the purpose of working some machine or engine useful to the public, in which cases the same proceedings shall be had as are before directed in the case of a water grist-mill, or for the purpose of a water grist-mill, before provided for: And where any such are now standing, or shall hereafter be erected or fixed, the owner or tenant of the lands adjacent thereto (whether the same were erected or fixed by himself or another) shall cause it to be abated: And whoso offendeth herein, shall be deemed guilty of a nuisance.

Commence-
ment of act.

VIII. This act shall commence and be in force from and after the first day of January, one thousand seven hundred and eighty-seven,

CHAP. LXXXIII.

From Her
Bills of 1777
ch. LII.

An act concerning servants.

Servants who
may be, and
how long to
serve.

I. *BE it enacted by the General Assembly, That all white persons not being citizens of any of the confederated states of America, who shall come into this commonwealth under contract to serve another in any trade or occupation, shall be compellable to perform such contract specifically during the term thereof, or during so much of the same as shall not exceed seven years. Infants under the age of fourteen years brought in under the like contract, entered into with the consent of their father or guardian, shall serve till their age of twenty-one years only, or for such shorter term as the said contract shall have fixed.*

Duty of mas-
ters.

II. The said servants shall be provided by their master with wholesome and sufficient food, clothing and lodging, and at the end of their service, if they shall not have contracted for any reward, other than transportation, food, clothing, and lodging, shall receive from him one new and complete suit of clothing suited

to the season of the year, to wit, a coat, waistcoat, pair of breeches and shoes, two pair of stockings, two shirts, a hat, and blanket.

III. The benefit of the said contract of service shall be assignable by the master to any person to whom the servant shall, in the presence of a justice of the peace, freely consent that it shall be assigned, the said justice attesting such free consent in writing, and shall also pass to the executors, administrators, and legatees of the master. How contract for service assignable.

IV. Any such servant being lazy, disorderly, guilty of misbehaviour to his master, or in his master's family, shall be corrected by stripes, on order from a justice of the county, city, or corporation, wherein he resides, or refusing to work, shall be compelled thereto in like manner, and moreover shall serve two days for every one he shall have so refused to serve, or shall otherwise have lost, without sufficient justification. All necessary expences incurred by any master for apprehending and bringing home any absconding servant shall be repaid by further service, after such rates as the court of the county, city, or corporation shall direct, unless such servant shall give security, to be approved of by the said court, for re-payment in money within six months after he shall be free from service, and shall accordingly pay the same. Servants, how punished. Runaway servants, to compensate for loss of time.

V. If any master shall fail in the duties prescribed by this act, or shall be guilty of injurious demeanor towards his servant, it shall be redressed, on motion by the court of the county, city, or corporation, wherein the servant resides, by immediate discharge from service if the injury were gross, or by a specific order for a change in his demeanor and a discharge from service, if such order be disobeyed. Complaints of servants against masters, how redressed.

VI. All contracts between master and servant during the time of service shall be void. Contracts between master and servant void.

VII. This act shall commence and be in force from and after the first day of January, one thousand seven hundred and eighty-seven. Commencement of act.

From Rev.
Bills of 1779,
ch. LIII.

CHAP. LXXXIV.

An act for apprehending and securing runaways.

Runaway servants & slaves how apprehended and dealt with.

I. *BE it enacted by the General Assembly*, That any person may apprehend a servant or slave, suspected to be a runaway, and carry him before a justice of the peace, who, if to him the servant or slave appear, by the oath of the apprehender, to be a runaway, shall give a certificate of such oath. and the distance, in his opinion, between the place where the runaway was apprehended and that from whence he fled; and the apprehender shall thereupon carry the runaway to the last mentioned place, or deliver him to the owner, or some other authorized to receive him, and shall be entitled to ten shillings, and one shilling for every mile of such distance as he shall necessarily carry him, to be paid by the owner. The runaway, if the owner be not known, or reside not in the commonwealth, shall be, by warrant of the justice, committed to the jail of his county, the keeper whereof shall forthwith cause an advertisement, with a description of the runaway's person and wearing apparel, to be set up at the door of the court-house, and of every church in his county within ten miles. If the owner claim not within two months thereafter, the sheriff shall publish a like advertisement in the Virginia Gazette for three months, and shall hire the runaway out during such time, and for such wages as his county court shall approve, having put an iron collar, stamped with the letter F. round his neck, and out of the wages pay the reward for apprehending, and the expences incurred on his account; but he shall deliver the runaway, even before the time expire, and pay the balance of the wages received, if any, to him who shall claim, and who having proved before the court of some county, or a justice of the peace of the county in which such runaway is confined, that he had lost such an one as was described in the advertisement, and having there given security to indemnify the sheriff, shall produce the clerk's or the justice's certificate of such proof made and security given, prove, by his own or another's oath, the runaway when shewn to him, to be

the same that was so lost, and pay so much as the expences aforesaid shall exceed the wages. The runaway, being a slave, after the end of one year from the last advertisement, shall be sold, and the proceeds of the sale, with the balance of the wages, paid to the public treasurer, for the use of the owner, proving his property at any future time, or otherwise for the use of the commonwealth. If the runaway die in jail, the expences shall be defrayed by the public. The runaway, if he shall have crossed the bay of Chesapeake, shall be delivered to the sheriff of some county bounded thereby, who shall transport him to the other side, and cause him to be put into the hands of a constable, to be by constable to constable conveyed to the owner, who shall pay to the sheriff five pounds, and to the constable one shilling for every mile he shall necessarily travel in performing this duty.

II. This act shall commence and be in force from and after the first day of January, one thousand seven hundred and eighty-seven. Commencement of act.

CHAP. LXXXV.

An act to enable guardians and committees to perform certain acts for the benefit of those who are under their care.

From Rev.
Bills of 1779,
ch. LXI.

1. *BE it enacted by the General Assembly, That* where any person under the age of twenty-one years, or of unsound mind is, or shall be seized or possessed of any land, tenements, or hereditaments, in trust or by way of mortgage, the guardian of the one, or committee of the other (which committee shall be appointed by the high court of chancery) by order of such court made, upon the petition of one or more of the parties interested, and after hearing them all, may execute any such deed, or perform any other such act as the trustee, What acts guardians & committees may perform for infants, & wards.

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or mortgagee, if he were of full age, or of sane mind; respectively might have executed or performed; and such deed or other act shall be as valid, except that he shall not be bound by a warranty or other covenant contained in the deed. Also the said court may in like manner empower such guardian or committee to make, or take, a surrender of a former lease, and to take; or make, a new lease, as the case may require, and as it shall seem most for the advantage of the infant, idiot, or lunatic, out of whose estate any fine that may be advanced and all other just expences that may be incurred in order to obtain a new lease to him, shall be reimbursed, and the new lease shall not only be chargeable with such fine and expences, but shall remain subject to all incumbrances which the lease surrendered would have been subject to.

Commence-
ment of act.

II. This act shall commence and be in force from and after the first day of January, one thousand seven hundred and eighty-seven.

From Rev.
Bills of 1779,
ch. LX.

CHAP. LXXXVI.

An act concerning guardians, infants, masters, and apprentices.

Testamenta-
ry guardian,
how and by
whom consti-
tuted.

I. *BE it enacted by the General Assembly, That any father, even if he be not twenty-one years old, may, by deed, or last will and testament, either of them being executed in presence of two creditable witnesses grant or devise the custody and tuition of his child, which had never been married, although it be not born, during any part of the infancy of such child, to whomsoever he will; and such grant or devise heretofore or hereafter to be made, shall give the grantee or devisee the same power over the person of the child as a guardian in common socage hath, and authorize him, by action of ravishment of ward or trespass, to recover the child, with damages, for the wrongful taking or de-*

taining him or her, for his or her use, and for the same use to undertake the care and management, and receive the profits of the ward's estate, real and personal, and prosecute and maintain any such action and suits concerning the same, as a guardian in common socage may do. The high court of chancery generally, and the court of every county in chancery within the limits of their jurisdiction, shall have power from time to time to controul guardians, and hear and determine all matters between them and their wards; to require security of any guardian in focage, or statutory guardian, when that caution shall seem necessary, for prevention of any damage his ward may suffer, by neglect, mismanagement, or malversation; and if the security be refused or delayed, or if such guardian appear to have been guilty of a flagrant abuse of trust, to displace him, and appoint another in his stead, and to give such directions, and make such rules and orders, as they shall think fit, for the government, maintenance, and education of wards, and preservation of their estates, and for the conduct of guardians. Every court appointing a guardian, shall take bond of him, with sufficient surety for the faithful execution of his office, and if any court omit this duty, or take such surety as shall not satisfy them of his sufficiency, which may be done as well by the surety's affidavit, as otherwise, the ward, by an action on the case against the judges or justices so making default, may recover so much of the damages which the guardian and surety shall be answerable for as these shall be unable to pay. If any guardian refuse, or be unable to give the surety required of him, the court may put the estate into the hands of a curator, the fittest they can prevail upon, to undertake the care of it, to be accountable to them, and in that case shall not be sponisible for his ability. Every guardian, or curator, to be appointed by any court, shall, at the term or session next afterwards, deliver into such court, an inventory, upon oath, of all the estate which he shall have received, to be entered of record in a separate book; and such guardian, or curator, and every guardian heretofore so appointed, shall exhibit to such court, once in every year, which, if it be a county court, shall be in August, or at the next session, if there be none in that month, or oftener, if he be specially required, accounts of the pro-

Power of
courts over
guardians.

Bond and
security.

Curator.

Inventories.

Guardians'
accounts.

duce of the estate, of the sales and disposition of that produce, and of the disbursements, which accounts shall be examined by the court, or by such persons as the court shall refer them to, and being found and certified, or reported to be properly and fairly stated, and the articles thereof to be justified by the vouchers, and the report, in case of a reference, being approved and confirmed by the court, shall, with such certificate or confirmation, be entered of record in the book aforesaid: And if any article of such accounts at any time afterwards be excepted to by the ward, or his representative, it shall be incumbent on him to prove or shew the falsity or injustice thereof, unless notice on his behalf shall have been given at the time of passing the accounts, that such article would be excepted to, and a memorandum of that notice shall have been entered on record, or desired to be entered. The court, at any time when they shall know or have cause to suspect that the surety of a guardian is failing, may require and compel such guardian to give supplemental security, or if he refuse or neglect to do so, may displace him. A guardian who shall not deliver in such inventory, and render such accounts as aforesaid, shall, by order of the court to which he is amenable, be summoned, and if he remain in default, be compelled to perform his duty, or be displaced; for which purpose the summons, or other process from a county court, may be directed to and shall be executed by the sheriff of any other county wherein the guardian may be found, and every judge or justice of the court sitting therein, at any time during the term or session in which the process ought to have been ordered, if it be not ordered accordingly, shall be amerced. If the disbursements of the guardian, being suitable to the estate and circumstances of the ward, shall exceed the profits of his estate in any year, the balance, with the allowance of the court, may be debited in the account of a succeeding year; and a balance appearing on the contrary side, may be put out to interest, for the benefit of the ward, upon such security as the court shall approve, or the guardian, if it remain in his hands, shall account for the interest, to be computed from the time his accounts were or ought to have been passed. If any surety for a guardian, by petition to the court before whom they were bound, setting forth, that he apprehends himself

Supplemental security.

Disbursements.

Counter security.

to be in danger of suffering thereby, shall pray that he may be relieved, the court, after a summons to answer the petition shall have been served upon the guardian, or a copy of such summons shall have been left at the place of his usual abode, shall order him to give counter security, or to deliver the ward's estate into the hands of the surety, or some other, in that case taking sufficient security, or may make such other order for relief of the petitioner as to them shall seem just. The estate of a guardian, not under a specific lien, shall, after his death, be liable for whatsoever may be due from him on account of his guardianship to his ward before any other debt due from such guardian. Every orphan who hath no estate, or not sufficient for a maintenance out of the profits, shall, by order of the court of the county in which he or she resides, be bound apprentice, until the age of twenty-one years, if a boy, or of eighteen years, if a girl, to some master or mistress, who shall covenant to teach the apprentice some art, trade, or business, to be particularized in the indenture, as also reading and writing, and if a boy, common arithmetic, including the rule of three, and to pay to him or her three pounds and ten shillings at the expiration of the time. Any guardian may, with the approbation of that court in which his appointment shall be recorded, and not otherwise, bind his ward apprentice to such person, for learning such art or trade, and with such covenants on the part of the master or mistress as the said court shall direct; and any such apprentice, with the like approbation, or any apprentice bound by his father, may, with the approbation of the court of that county in which the father shall reside, after he shall be sixteen years of age, agree to serve until he shall be twenty-four years of age, or any shorter time, and such agreement entered on record shall bind him:

Estate of guardian, first bound to ward.

Orphans bound apprentices.

Covenants in indentures.

Wards bound apprentices.

II. The court of every county, city, or borough, shall at all times receive the complaints of apprentices, or hired servants, being citizens of any one of the confederated states of America, who reside within the jurisdiction of such court, against their masters or mistresses, alledging undeserved or immoderate correction, insufficient allowance of food, raiment, or lodging, or want of instruction, and may hear and determine such cases in a summary way, making such or-

Complaints of apprentices, how redressed.

ders thereupon as in their judgment will relieve the party injured in future, or removing the apprentices, and binding them to other masters or mistresses, when it shall seem necessary; and may also, in the same manner, hear and determine complaints of masters or mistresses against their apprentices, or hired servants, for desertion, without good cause, and may oblige the latter, for loss thereby occasioned, to make retribution, by farther services, after expiration of the times for which they had been bound.

Power of courts of hustings, of Williamsburg, Richmond, Norfolk, and other incorporated towns.

III. *And be it further enacted*, That the courts of hustings in the cities of Williamsburg and Richmond, and borough of Norfolk, and all other incorporated towns, shall have the same power as is hereby given to the county courts.

IV. This act shall commence and be in force from and after the first day of January, one thousand seven hundred and eighty-seven,

Commencement of act.

CHAP. LXXXVII.

From Rev. Bills of 1779, ch. LXII.

An act for the restraint, maintenance, and cure of persons not sound in mind.

Directors of lunatic hospital, how to be appointed

Incorporated.

Style of corporation.

I. *BE it enacted by the General Assembly*. That the present directors of the hospital for the reception of persons of unsound minds, and their successors, to be chosen when vacancies happen, by joint ballot of both houses of general assembly, are hereby constituted a body politic and corporate, to have perpetual continuance, by the name of the directors of the hospital for the maintenance and cure of persons of unsound minds, and by that name may sue and be sued, and may, and shall have and use a common seal; and are enabled to take and hold any estate real and personal, given, or to be given, to the said hospital, or to themselves, for the use thereof, so as the annual revenue or income of such donations exceed not one

thousand pounds, any law or statute to the contrary, notwithstanding; and shall and may, so often as it shall be necessary, choose a president, to continue in office until his death, resignation, or removal. And the said directors, or any seven of them, the president being one, shall, from time to time, ordain regulations for the government of the said hospital, and appoint a keeper or matron thereof, with nurses and guards, when they shall be necessary, and provide for the accommodation, maintenance, and cure of the patients remaining and to be received therein. By warrant, to be directed to the sheriff, a justice of peace may order to be brought before him any person whose mind, from his own observation, or the information of others, he shall suspect to be unsound, and with two other justices, who, at his request, shall associate with him, shall enquire into the state of such person's mind; and the said justices shall write as well what shall appear to themselves as what shall be testified by witnesses, touching the supposed insanity; and if two of them adjudge the party to be such a one as ought to be confined in the hospital, and some friend will not become bound, with surety, to restrain and take proper care of him or her, until the cause for confinement shall cease, the said justices, or two of them, shall order the insane to be removed to the said hospital, and there received, and for that end direct a warrant to the sheriff, and a mittimus to the said keeper, transmitting therewith, to the latter, the examinations of the witnesses, and a relation of such facts as the said justices shall think pertinent to the subject, to be laid before the directors.—The said keeper, immediately after the person removed shall be delivered to him, the receipt of whom he shall acknowledge in a writing signed by him, and given to the sheriff, shall inform the president thereof, who shall require his colleagues to meet so soon as may be; and at such meeting, which shall not be unnecessarily delayed, the directors, if having considered the case, they concur in opinion with the justices, shall register the insane as a patient; but they may at any time afterwards deliver him or her to a friend, becoming bound to restrain and take care of him or her, in the same manner as the justices might have done.—If the directors differ in opinion from the justices, they shall report the matter to the high court of chancery,

Corporate powers.

Lunatics, how removed to hospital.

Proceedings thereon.

If directors differ in opinion from justices.

who shall thereupon award the writ *de idiota inquirendo*, directed to the sheriff of that county from whence the person supposed to be insane shall have been removed, and such person shall be put into the custody of the said sheriff, and remain there until the inquisition be taken and returned, and then shall be enlarged or registered, as the said court shall order. The court

Infant lunatics, how proceeded with.

of a county, city, or borough, shall refer it to three justices to examine into the state of mind of an infant, child, or ward, in their county, city, or borough, suggested to such court, by the parent or guardian, to be insane, and upon the report of the said justices, if the suggestion appear to be true, shall order such insane to be removed in the manner before directed, to the hospital, where he or she shall be received and registered. The expence of maintaining, and endeavouring to cure a registered insane, shall be reimbursed out of his estate, if any such there be, and in case of an infant, not an orphan, shall be repaid by the parent, if of sufficient ability to support such infant, to be adjudged of and certified by the court of the county where such parent resides, and may be recovered by an action commenced and prosecuted in the names of the directors, who shall account for what shall thus come to their hands. Accounts of expences incurred in execution of this act, as well for repairing the hospital, and other necessary incidental works and services, shall be audited and discharged in the same manner as other public accounts. The directors shall enlarge every person confined in the hospital, who shall appear to them to be perfectly cured of insanity, and give such person a certificate thereof. A person registered in the hospital shall nevertheless, during the time of his or her confinement there, be deemed an inhabitant of that county in which was his or her legal settlement at the time of his or her removal to the hospital.

When lunatics may be discharged.

Legal settlement of lunatics.

Commencement of act.

11. This act shall commence and be in force from and after the first day of January, one thousand seven hundred and eighty-seven.

CHAP. LXXXVIII.

An act vesting the estate of Matthew Womble, deceased, in trustees, to be sold for the benefit of his children.

BE it enacted by the General Assembly, That the whole estate, both real and personal, of Matthew Womble, who was convicted of murder at the session of the general court in December last. and executed accordingly, be, and the same is hereby vested, in Thomas Wrenn, William Gay, James Coffer, and John Scasbrook Wills, gentlemen, trustees, to be by them, or any two of them, sold for the best price that can be had, giving one month's notice of the time and place of sale in the Virginia Gazette; and the said trustees shall convey the same to the purchasers in fee, and apply the money arising from the sale thereof in the first place to the payment of the just debts of the said Matthew Womble, and the residue divided between his children, and paid by the said trustees to their guardian or guardians; any law, usage, or custom, to the contrary, notwithstanding.

Estate of Matthew Womble, executed for murder, how disposed of.

CHAP. LXXXIX.

An act incorporating trustees for establishing and conducting a seminary of learning, at the town of Fincastle, in the county of Botetourt.

1. WHEREAS it is the interest of all wise, civilized and free governments, to facilitate as much as may be, the diffusion of useful knowledge among its inhabitants: And whereas to this end sundry persons of the county of Botetourt have given considerable donations,

Preamble.

for the purpose of endowing and supporting a seminary of learning, at the town of Fincastle, in the said county, and have represented to this present general assembly, that their designs would be much accelerated were a law to pass incorporating them into a body politic:

Seminary of
learning es-
tablished at
Fincastle, in
Botetourt
county.

Incorporated.
Style of cor-
poration.
Corporate
powers.

II. *Be it enacted*, That from and after the passing of this act, the said seminary shall obtain the name of Botetourt Seminary; and that David Robinson, William Fleming, George Skillern, Patrick Lockhart, Thomas Madison, Thomas Rowland, Thomas Lewis, David May, John Wood, Robert Harvey, William Neely, James Barnet, Henry Bowyer, Samuel Mitchell, George Hancock, and Archibald Stuart, gentlemen, be, and they are hereby constituted, a body politic and incorporate, by the name of the President, Wardens, and Directors of Botetourt Seminary, who shall have perpetual succession, and a common seal; and that they and their successors, by the name aforesaid, shall be able and capable in law to possess, purchase, receive, and retain, to them and their successors forever, any lands, tenements, rents, goods, chattels, or donations of any kind whatsoever, which may have been given, or shall in future be given, or purchased by them, for the use thereof, and by the same name to sue and be sued, implead and be impleaded, answer and be answered unto, in all courts of law or equity, and from time to time, under their common seal, to make and establish such bye-laws, rules and ordinances, not repugnant to the laws of this commonwealth, as by them shall be thought necessary for the good order and government of the same.

Duty and
power of offi-
cers.

III. *And be it further enacted*, That the said president, wardens, and directors, or any seven of them, shall have full power and authority to meet at such times as they shall think proper, and determine in all cases where a greater number of poor and indigent apply for admission than the funds can support, (to whom the preference shall be given) and to continue those so admitted for such length of time as they, or a majority of them, shall think necessary, having regard to the genius and capacity of the students, and of directing the study of such to any branch of literature, to which in their opinion the genius of the student is best adapted.

IV. *And be it further enacted*, That the president, warden, and directors, or any seven of them, upon the death, resignation, or failure to attend (being thereof previously notified) for two meetings successively, shall have power and authority to nominate and appoint a sufficient number of members to supply the places of those so dead, resigned, or failing to attend. To nominate and appoint a treasurer, secretary, and steward, to which several offices they may annex such salaries as to them shall appear equitable and right, who shall respectively be subject to a removal from office at the discretion of the corporation, for any abuse or neglect of duty; provided that the treasurer, previous to his entering on the duties of the said office, shall give bond, with security to be approved by the corporation, in the penalty of three thousand pounds, for the faithful discharge of the trust reposed in him, and shall, whenever thereunto required, render on oath, a just and true account of all monies and donations of every kind, which have come to his hands by virtue of his said office, and also of all expenditures for or to the use of the said seminary, and on failure so to do, shall be subject to a judgment, on motion in any court of record in this commonwealth; and execution may thereupon be awarded, in like manner as against sheriffs for the non-payment of public taxes in their hands.

Vacancies,
how supplied

Other off-
cers, how ap-
pointed.

CHAP. XC.

An act directing the sale of certain lands, late the property of John Mills, deceased, for the payment of his debts.

I. WHEREAS John Mills, late of the county of Fairfax, in the year one thousand seven hundred and eighty-three, died intestate, seized and possessed of a considerable real and personal estate, the former, by

Lands of John Mills, dec'd, to be sold for payment of his debts.

the operation of the laws of escheat and forfeiture, is escheatable to the commonwealth, and the personal estate has been sold by the administrators of the said John Mills, which will prove greatly insufficient for the payment of his debts: And whereas James Mills, late of the county of Middlesex, deceased, by his will devised to the said John Mills, a part of his outstanding debts, after several legacies, to a considerable amount, were previously paid; and there being no prospect of the creditors of the said John Mills deriving any benefit for a considerable time, if ever, from the said devise, they have made application to this assembly to direct the sale of the lands of the said John Mills, which are escheatable to the commonwealth, and the money arising from such sale to be applied towards the payment of their debts:

II. *Be it therefore enacted*, That the lands whereof the said John Mills died seized, and are escheatable to the commonwealth, shall be sold by his administrators, or the survivors or survivor of them, on credit not exceeding eighteen months, for the best price that can be had, and by them conveyed to the purchaser or purchasers in fee, and the money arising from such sales to be applied by the said administrators to the payment of the just debts of the said John Mills to his creditors, in equal proportions to the debts due them. And the said administrators, so soon as they shall receive the legacy, or any part thereof, devised to the said John Mills by the will of the said James Mills, after paying the just debts of the said John Mills, shall pay the same, or so much thereof, as shall be equal to the sum arising from the sale of the said lands, into the public treasury, after deducting a reasonable allowance for their expences and trouble.

CHAP. XCI.

An act for regulating the streets in and adjoining to the town of Alexandria.

I. WHEREAS it will tend greatly to the ornament of the town of Alexandria, as well as the convenience and health of the inhabitants thereof, if the streets of the said town were laid off and extended in a regular and uniform manner:

II. Be it therefore enacted by the General Assembly, That a district round the said town, bounded as followeth, viz: Beginning at Great Hunting creek, and running thence parallel with Fairfax-street, to Four-Mile run or creek, so as to intersect King-street (when extended) one mile west from the court-house; thence eastwardly down the said creek or run to its confluence with Potowmack river, thence southwardly down the said river, to the mouth of Great-Hunting creek, thence westwardly up the said creek to the beginning, shall be subject to the regulations herein after-mentioned, whensoever the proprietors of land within the aforesaid district shall, respectively, incline to lay out the same in town lots for the purpose of building thereupon, that is to say, the streets within the original plan of the said town, and which run westwardly from the river, and also the streets laid off by John Alexander and his executors, parallel therewith, shall be extended to the line which makes the western boundary, and be of the same width in every part, except Franklin-street, which shall be only fifty feet wide in that part thereof lying eastward of Union street. The streets hereafter to be laid off on the south side of Franklin-street, and the north side of Oronoko-street, and running westwardly within the said limits, shall be parallel with the last-mentioned street, be of the width of sixty-six feet in every part, and extend from the river Potowmack to the aforesaid western boundary. The streets within the original plan of the town, and which run up and down the river, shall be severally extended of the same width southwardly to Potowmack river or Great-Hunting creek, as the case may be, and

Streets in and adjoining town of Alexandria, regulated.

northwardly, to Potowmack river or Four-Mile run, as the case may require. All the streets hereafter to be laid off on the west-side of Washington-street, shall be parallel with Fairfax-street, and not less than sixty-six feet wide in every part, nor more than sixty-six feet wide in any part, without the consent of the proprietors of the land, first had and obtained, and shall be extended southwardly to Great-Hunting creek, and northwardly to Potowmack river or Four-Mile run. The streets running westwardly from Potowmack river shall be at the distance of three hundred and fifty-three feet two inches, and the streets running parallel with Fairfax-street, shall be distant from each other two hundred and forty-six feet ten inches, so that each square to be built upon and improved, shall contain two acres of land. The street called Washington street shall be one hundred feet wide in every part, and be extended northwardly and southwardly to the limits of the aforesaid district, except that part of the said street already laid out sixty-six feet wide, which shall continue of that width, unless the mayor and commonalty of the said town choose to widen the same to one hundred feet, in which case they shall, on or before the first day of April next, cause the damages or injury which any person or persons may in any manner sustain in their property by the widening of the said street, to be ascertained and valued by a jury of twelve good and lawful men, upon oath, to be empannelled by the sheriff of Fairfax county, and the amount of such damages, or injury, assessed as aforesaid, to be levied on the property within the limits of the corporation, and shall pay the amount to the several persons entitled thereto, in the following manner, viz. One half on or before the first day of January, one thousand seven hundred and eighty-seven, and the remainder on or before the first day of January, one thousand seven hundred and eighty-eight. *Provided*, That the church and burying ground vested in the minister and vestry of the Protestant Episcopal Church in Fairfax parish, shall not in any manner be affected by the extension of Cameron-street.

CHAP. XCII.

An act to repeal the act of assembly for establishing the town of Walkerton.

BE it enacted by the General Assembly, That the Act establishing town of Walkerton, in the county of King and Queen, shall be, and the same is hereby repealed. That forty acres of land, which were by deed bearing date the thirteenth day of June, one thousand seven hundred and nine, given and granted by John Walker, deceased, for the use of the inhabitants of the said town, as a common, shall be, and the same are hereby re-vested in the legal representatives of the said John Walker in fee: Provided always, That nothing herein contained shall be construed to affect the right of any person to a lot or part of a lot in the said place, or to discontinue the public road to, or ferry across, Mattapony river from the said town.

CHAP. XCIII.

An act for vesting the estate of John Tyler, deceased, in trustees, for certain purposes.

I. BE it enacted by the General Assembly, That the whole estate, both real and personal, of John Tyler, who was convicted of murder at the session of the general court in December last, and executed accordingly, be, and the same is hereby vested in William Alexander, James Gwatkins, and Valentine Peyton, trustees, for the following uses, that is to say: that they, or any two of them, shall sell the same, having given notice thereof for one month in the Virginia Gazette, upon twelve months credit, taking bond and good security

Estate of John Tyler, who was executed for murder, how disposed of.

from the purchasers; and when the money is received, pay to the state the expences of the prosecution of the said John Tyler, to his creditors their just debts, and distribute the remainder among the brothers and sisters of the said John, observing this rule of proportion, that such as are of the half-blood, if any there be, shall be entitled to but half a share. And whereas the said John Tyler, in his life-time, agreed to sell to Joseph Tyler, a tract of land containing one hundred and fifty-five acres, more or less, lying in the county of Loudoun, for the sum of one hundred and sixty pounds, part whereof has been paid, but no conveyance executed before the deaths of the said Joseph and John Tyler.

II. *Be it enacted*, That the said trustees, or any two of them, be empowered to demand and receive from the administrators of the said Joseph Tyler the balance due, and upon receipt thereof, to convey the said tract of land in fee to the heir at law of the said Joseph, and distribute the money among the representatives of the said John, in manner aforesaid.

III. *And be it further enacted*. That Elizabeth, the widow and relict of the said Joseph, shall be entitled to dower in the said one hundred and fifty acres of land, in the same manner that she would have been if the lands had been conveyed to the said Joseph in his life-time.

CHAP. XCIV.

An act for establishing the town of Clarksburg in the county of Har- rison.

Town of
Clarksburg
in Harrison
county esta-
blished.

I. WHEREAS a considerable number of lots have been laid off, and houses built thereon, by the proprietors of the place fixed for the erecting the court-house and other public buildings in the county of Harrison, and application being made to this assembly that the same may be established a town:

II. *Be it therefore enacted*, That the said lots so laid off, or hereafter to be laid off by the trustees, shall be, and the same are hereby established a town, by the name of Clarksburg. and that William Haymond, Nicholas Carpenert, John Myers, John M'Ally, and John Davisson, gentlemen, are hereby appointed trustees of the said town, who, or any three of them, shall have power from time to time to settle and determine all disputes concerning the bounds of the said lots, and in case of the death, resignation, or removal out of the county of any one or more of the said trustees, it shall be lawful for the freeholders of the said town to elect and choose others in their stead, and those so chosen shall have the same power and authority as any one particularly named in this act.

III. *Provided always, and be it further enacted*, That half an acre of ground, or so much thereof as may be thought necessary, either in one entire or two separate parcels, shall be laid off by the said trustees in the most convenient part of the said town, and appropriated for the purpose of erecting thereon the court-house and other public buildings; and that the said trustees have full power to lay off as many lots, streets, and alleys as to them shall seem convenient, for the benefit of the said town; and that the possessor of any lot or lots in the said town, shall, before the first day of January, one thousand seven hundred and ninety, build thereon a dwelling house of at least sixteen feet square, either of stone, brick, frame, or hewed logs, with a stone or brick chimney, and upon failure thereof, shall forfeit their lot or lots to the said trustees, to be further disposed of as they may think proper, for the benefit of the said town.

IV. *And be it further enacted*, That the freeholders of the said town shall be entitled to, and have and enjoy all the rights, privileges, and immunities, which the freeholders of other towns not incorporated, have and enjoy.

CHAP. XCV.

An act for establishing a town on the lands of William Mercer, in the county of Stafford.

Town of
Leesville, in
Stafford county
established.

1. *BE it enacted by the General Assembly, That* seventy-one acres of land, being part of a tract devised by the will of the late general Hugh Mercer, deceased, to his son William Mercer, now an infant, lying on Rappahannock river, in the county of Stafford, shall be, and the same are hereby vested in William Fitzhugh, James Hunter, Mann Page, George Weedon, William Garrard, and John Mercer, gentlemen, trustees, to be by them, or a majority of them, laid out into lots of half an acre each, with convenient streets, which shall be, and the same is hereby established a town, by the name of Leesville. So soon as the said seventy-one acres of land shall be so laid off into lots and streets, the said trustees, or a majority of them, shall proceed to sell the said lots, at public auction, for the best price that be had, the time and place of which sale shall be previously advertised for one month in the Virginia Gazette; the purchasers to hold the said lots respectively, subject to the condition of building on each a dwelling house sixteen feet square at least, with a brick or stone chimney, to be finished fit for habitation within three years from the day of sale: And the said trustees, or a majority of them, shall, and they are hereby empowered, to convey the said lots to the purchasers thereof in fee subject to the condition aforesaid, and pay the money arising from the sale thereof to the executors of the said Hugh Mercer, to be by them accounted for, and paid to the said William Mercer, or his legal representatives. The said trustees, or a majority of them, shall have power from time to time, to settle and determine all disputes concerning the bounds of the lots, and to settle and establish such rules and orders for the regular building of houses thereon, as to them shall seem best; and in case of the death, resignation, or other legal disability of any of the said trustees, to elect and choose others in their stead, which trustees, so chosen, shall, to all intents and purposes, be vested

with the same powers and authority as any other in this act particularly nominated and appointed.

II. *And be it further enacted*, That the purchasers of lots in the said town, so soon as they shall have built upon and saved the same, according to the conditions of their respective deeds of conveyance, shall then be entitled to, and have and enjoy, all the rights, privileges, and immunities, which the freeholders and inhabitants of other towns not incorporated, hold and enjoy. If the purchasers of any lot shall fail to build thereon within the time before limited, the said trustees, or a majority of them, may thereupon enter into such lot, and sell the same again, and apply the money for the benefit of the inhabitants of the said town.



CHAP. XCVI.

An act appointing trustees for the town of Suffolk, and for enlarging the same.

I. *BE it enacted by the General Assembly*, That ^{Trustees of} Wells Cowper, John Driver, John Granberry, Willis ^{town of Suffolk appointed.} Riddick, Robert Cowper, Archibald Richardson, and Thomas Wishart, gentlemen, shall be, and they are hereby constituted and appointed, trustees of the town of Suffolk: That sixteen acres of land adjoining the said town, the property of John Granberry, be, and the same are hereby vested in the said trustees, and shall be held, deemed and taken as part of the said town, and shall be laid off by the said trustees, or a majority of them, into lots of half an acre each, with convenient streets, and sold at public auction for the best price that can be had, the time and place of such sale being previously advertised two months in the Virginia Gazette, and to convey the said lots to the purchasers thereof in fee respectively, subject to the condition of building on each a dwelling-house, at least twenty feet ^{Addition to the town.}

long and sixteen feet wide, with a brick or stone chimney, to be finished within four years from the day of sale. The money arising from the sale of the said lots shall be paid by the said trustees to the said John Granberry, or his legal representatives. The said trustees, or a major part of them, shall have power from time to time, to settle and determine all disputes concerning the bounds of the said lots, and to settle such rules for the regular building of houses thereon, as to them shall seem most convenient: That in case of the death, removal out of the county, or other legal disability of any of the said trustees, the vacancy thereby occasioned shall be supplied by the remaining trustees, and those so chosen shall be to all intents and purposes individually vested with the same power and authority as any one in this act particularly mentioned. The purchasers of lots in the said town, so soon as they shall have built upon and saved the same, according to the conditions of their respective deeds of conveyance, shall be entitled to and enjoy the same rights, privileges, and immunities, with the other freeholders and inhabitants of the said town: That if the purchaser of any lot sold by the said trustees shall fail to build thereon within the time before limited, the said trustees, or the major part of them, may thereupon enter into such lot, and sell the same again, and apply the money for the benefit of the said town.

CHAP. XCVII.

An act to establish a town on the lands of Zackquell Morgan, in the county of Monongalia.

Morganstown
in Monongalia.
established.

1. *BE it enacted by the General Assembly, That fifty acres of land, the property of Zackquell Morgan, lying in the county of Monongalia, shall be, and they are hereby vested in Samuel Hanway, John Evans,*

David Scot, Michael Kearnes, and James Daugherty, gentlemen, trustees, to be by them, or any three of them, laid out into lots of half an acre each, with convenient streets, which shall be, and the same are hereby established a town, by the name of Morgans-town. So soon as the said fifty acres of land shall be so laid off into lots and streets, the said trustees or the major part of them, shall proceed to sell the said lots, at public auction, for the best price that can be had, the time and place of which shall be previously advertised for two months in the Virginia Gazette; the purchasers to hold the said lots respectively, subject to the condition of building on each a dwelling-house, eighteen feet square at least, with a brick or stone chimney, to be finished fit for habitation within four years from the day of sale: And the said trustees, or the major part of them, shall, and they are hereby empowered, to convey the said lots to the purchasers thereof in fee simple, subject to the condition aforesaid, and pay the money arising from the sale thereof to the said Zackquell Morgan, or his legal representatives. The said trustees, or a majority of them, shall have power from time to time, to settle and determine all disputes concerning the bounds of the said lots, and to settle such rules and orders for the regular building of houses thereon, as to them shall seem best and most convenient; and in case of the death, removal out of the county, or other legal disability, of any of the said trustees, it shall be lawful for the other trustees, to elect and choose so many other persons in the room of those dead, removed, or disabled, as shall make up the number: the trustees, so chosen, shall to all intents and purposes, be vested with the same powers as those particularly named in this act. The purchasers of the lots in the said town, so soon as they shall have built upon and saved the same, according to the conditions of their respective deeds, shall be entitled to, and have and enjoy all the rights, privileges, and immunities, which the freeholders and inhabitants of other towns in this state, not incorporated, hold and enjoy. If the purchaser of any lot shall fail to build thereon within the time before limited, the said trustees, or the major part of them, may thereupon enter into such lot, and sell the same again, and apply the money towards repairing the streets, or in any other way for the benefit

of the said town. *Provided always*, That nothing herein contained shall be construed or taken; so as to authorize the said trustees to sell any lot, that may have already been sold and conveyed by the aforesaid Zackquell Morgan, nor to re-enter the same, provided the holder thereof shall build a house of such dimensions as is herein before directed, within the space of four years after the passing of this act.

CHAP. XCVIII.

An act giving further time to the purchasers of lots in the town of Moorfield to build thereon.

Further time
allowed to
improve lots
in Moorfield.

I. WHEREAS the purchasers of lots in the town of Moorfield, in the county of Hampshire, from the difficulty of procuring materials have not been able to build on their said lots within the time prescribed by law:

II. *Be it therefore enacted*, That the further time of three years, from the passing of this act, shall be allowed the purchasers of lots in the said town to build upon and save the same.

CHAP. XCIX.

An act for giving further time to the proprietors of lots in the town of Bath to make improvements thereon.

Further time
allowed to
improve lots
in town of
Bath.

I. WHEREAS by an act of the general assembly, intituled "An act for establishing a town at the Warm Springs, now called Bath, in the county of Berkeley,"

it was, among other things, directed, that the purchasers of lots in the said town should, within twelve months from the day of sale, build upon each of the said lots a dwelling-house, twelve feet square, fit for habitation. And whereas it has been represented to this present general assembly, that the time limited for building upon and saving the said lots was of too short a period:

II. *Be it therefore enacted by the General Assembly,* That the purchasers of lots in the said town shall be allowed until the first day of October, one thousand seven hundred and eighty-seven, as a further time to build upon and save the same; any thing in the said recited act to the contrary, notwithstanding.

CHAP. C.

An act to establish a town on the land of James Gordon, in the county of Lancaster.

1. *BE it enacted by the General Assembly,* That fifty acres of land, the property of James Gordon, lying between the eastern and western branch of Corotoman river, in the county of Lancaster, shall be, and they are hereby vested in Edwin Conway, John Berryman, Henry Towles, James Wallace Ball, George Carter, Joseph Ball Downman, John Gordon, Thomas Gaskins, and James Ball, junior, gentlemen, trustees, to be by them, or a majority of them, laid out into lots of half an acre each, with convenient streets, and established a town, by the name of Gordonsville. So soon as the said fifty acres of land shall be laid off into lots and streets, the said trustees, or a majority of them, shall proceed to sell the same at public auction, for the best price that can be had, the time and place of which sale shall be previously advertised for two months in the Virginia Gazette. The purchasers to hold the said lots respectively, subject

Town of
Gordonsville,
in Lancaster
county, esta-
blished.

to the condition of building on each a dwelling-house, sixteen feet square at least, with a brick or stone chimney, to be finished fit for habitation within three years from the day of sale; and the said trustees, or a majority of them, shall, and they are hereby empowered, to convey the said lots to the purchasers thereof in fee, subject to the condition aforesaid, and pay the money arising from the sale thereof to the said James Gordon, or his legal representatives. The said trustees, or the major part of them, shall have power from time to time to settle and determine all disputes concerning the bounds of the lots, and to establish such rules and orders for the regular building of houses thereon, as to them shall seem best and convenient; and that in case of the death, resignation, or other legal disability of any one or more of the said trustees before named, it shall be lawful for the remaining trustees to elect and choose others in their stead; which trustees so chosen, shall, to all intents and purposes, be vested with the same power and authority as any other in this act particularly nominated and appointed. The purchasers of lots in the said town, so soon as they shall have built upon and saved the same, according to the conditions of their respective deeds of conveyance, shall then be entitled to, and have and enjoy, all the rights, privileges, and immunities, which the freeholders and inhabitants of other towns in this state, not incorporated, hold and enjoy.

II. If the purchaser of any lot shall fail to build thereon within the time before limited, the said trustees, or a majority of them, may thereupon enter into such lot, and sell the same again, and apply the money for the benefit of the inhabitants of the said town.

CHAP. CI.

An act for establishing a town on the lands of Landon Carter, in the county of Fauquier.

BE it enacted by the General Assembly, That fifty Town of Carolandville, in Fauquier county established.
 acres of land, being part of a large tract belonging to Landon Carter, gentleman, lying at a place called Norman's Ford, in the county of Fauquier, be, and the same is hereby vested in John Blackwell, Humphrey Brooke, George Fitzhugh, William Pickett, and Thomas Helm, gentlemen, trustees, to be by them, or any three of them, laid out into lots of half an acre each, with convenient streets, which shall be, and the same is hereby established a town, by the name of Carolandville: That so soon as the said fifty acres of land shall be so laid off into lots and streets, the said trustees, or any three of them, shall proceed to sell the same at public auction, for the best price that can be had, the time and place of which sale shall be previously advertised for one month in the Virginia Gazette: The purchasers to hold the said lots respectively, subject to the condition of building on each a dwelling house, four hundred square feet at least, with a brick or stone chimney, to be finished fit for habitation within four years from the day of sale; and the said trustees, or any three of them, shall, and they are hereby empowered, to convey the said lots to the purchasers thereof in fee-simple, subject to the condition aforesaid, and pay the money arising from the sale thereof to the said Landon Carter, or his legal representatives. The said trustees, or any three of them, shall have power from time to time, to settle and determine all disputes concerning the bounds of the lots, and establish such rules and orders for the regular building of houses thereon, as to them shall seem best and convenient; and that in case of the death, removal out of the county, or other legal disability, of any one or more of the said trustees, it shall be lawful for the surviving or remaining-trustees to elect and choose others in the room of those dead or disabled; which trustees so chosen,

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shall, to all intents and purposes, be vested with the same powers and authority as any other in this act particularly appointed: That the purchasers of the lots in the said town, so soon as they shall have built upon and saved the same, according the conditions of their respective deeds of conveyance, shall then be entitled to, and have and enjoy, all the rights, privileges, and immunities, which the freeholders and inhabitants of other towns, not incorporated, hold and enjoy. If the purchasers of any lot shall fail to build thereon within the time before limited, the said trustees, or the major part of them, may thereupon enter into such lot, and sell the same again, and apply the money for the benefit of the inhabitants of the said town.

CHAP. CII.

An act for giving further powers to the trustees of the town of York.

Trustees of town of York empowered to dispose of certain lands, held as common.

I. *BE it enacted by the General Assembly*, That the trustees for the town of York be, and they are hereby authorized and empowered, to lay out, allot, and dispose of, certain lands added to the said town of York, as a common by an act of assembly, passed in the year one thousand seven hundred and thirty-eight, and to dispose of the said lands in such a manner as they, or a majority of them, shall judge most for the benefit and advantage of the said town; and that the said lands shall be annexed to and considered as a part of the said town of York.

CHAP. CIII.

An act to discharge George Taylor and James Madison, from further proceeding on the trust reposed in them by an act of the legislature.

I. WHEREAS, George Taylor and James Madison, gentlemen, with the approbation of the other trustees, by virtue of two acts of assembly, the one passed in the year one thousand seven hundred and sixty-five, and the other in the year one thousand seven hundred and sixty six, sold fourteen thousand acres of land, lying in the county of Orange, whereof Harry Beverley, gentleman, was seized in fee-tail, and from the money arising therefrom purchased a number of slaves, which were to be annexed to his other intailed lands: And whereas the said Harry Beverley departed this life some time ago, leaving Robert Gaines Beverley, his eldest son and heir, and there being yet several sums of money due for the sales of the said land, which the said Robert Gaines Beverley chooses rather to receive, than that the same should be applied to the purchase of slaves agreeably to the directions of the said acts, which cannot now be intailed:

George Taylor and James Madison discharged from the trust, in relation to the lands of Harry Beverley.

II. *Be it therefore enacted*, That Charles Porter, French Strother, and Oliver Towles, gentlemen, or any two of them, are hereby authorized to settle the accounts of the said George Taylor and James Madison, respecting the trust aforesaid, and to make them such allowance for their trouble as shall appear reasonable: Whereupon it shall be lawful for the said trustees to assign to the said Robert Gaines Beverley, any securities which may remain unsatisfied for the purchase of the said lands, and upon paying him the balance, if any, of money in their hands concerning the said trust, shall thenceforth be discharged therefrom. The said commissioners shall cause the accounts so settled to be recorded in the court of the said county of Orange, the expence thereof to be paid by the said Robert Gaines Beverley.

Their accounts, how settled.

CHAP. CIV.

An act to authorize the administrator of Alexander Wodrow, deceased, to convey part of a lot of land to Elizabeth Eskridge.

Administrator of Alexander Wodrow authorized to convey a lot, in Winchester to Elizabeth Eskridge.

I. WHEREAS it has been represented to the general assembly, that Alexander Wodrow, with sundry others, were seized in common of a certain lot of land in the borough of Winchester, distinguished in the plan thereof by the number 2. which they sold, for a valuable consideration, to William Scott, but before a conveyance was made, the said Scott died, leaving Elizabeth Scott, his only child and heir at law, who has since intermarried with William Eskridge; and that the said Alexander Wodrow is also dead, and his heir at law not being a resident of the state, a legal title to the said lot cannot be obtained:

II. *Be it therefore enacted*, That it shall be lawful for the administrator of the said Alexander Wodrow, at the costs and charges of the said William Eskridge, to convey to the said Elizabeth Eskridge in fee-simple, the said Alexander Wodrow's undivided part of the said lot of land, which shall be as effectual to all intents and purposes as if the said Alexander Wodrow had conveyed the same himself.

CHAP. CV.

An act authorizing John Mayo, the younger, to build a toll bridge across James river.

John Mayo, jun. authorized to build a toll bridge across James river.

I. *Be it enacted by the General Assembly*, That it shall be lawful for John Mayo, the younger, his heirs and assigns, to erect or build a bridge across James river, from any part of the lands on each shore, be-

tween the upper end of Broad-Rock island and the upper end of Coutt's ferry landing:

II. *Provided always, and be it further enacted*, That the damages which the persons holding lands may sustain by means of building the said bridge, adjoining to or upon their lands, as well as damages that persons holding lots adjacent to the said bridge may sustain by opening a way to the same, shall be previously valued by a jury, in the same manner as is directed by law in the case of the public squares in the city of Richmond, and such valuation paid to the proprietors: *Provided also*, That this act shall not be construed to give the said Mayo, his heirs or assigns, a right to take any part of an improved lot or lots adjacent to the said river. So soon as the said bridge shall be completed, it shall be lawful for the said John Mayo, his heirs and assigns, to demand and receive the same toll or rates for the passage of any person or thing as is allowed at Coutt's ferry. The said John Mayo, his heirs or assigns, shall begin to erect the said bridge within two years, and complete the same within seven years thereafter; or if the said bridge after it is erected, shall remain unfit for the passage of any person or thing by the space of seven years, on failure in either of the said cases, the lands valued pursuant to this act shall revert to and be vested in the former proprietors. The said bridge shall be so constructed that the navigation of the said river may not thereby be injured or affected, nor shall any stops or other obstructions to the passage of fish be placed or fixed at or near the said bridge, under the penalty of one hundred pounds, to be recovered by action or information in any court of record within this commonwealth, one half to the use of the informer, the other to the use of the commonwealth.

Conditions:

Tolls

CHAP. CVI.

An act to authorize the trustees of Samuel Du Val, junior, to sell the one-fifth part of the Deep Run coal pits, and to lay out the money arising from the sale thereof, in other lands and slaves, for the greater benefit of the said Samuel Du Val, junior, and his children.

Trustees of Samuel Du Val, jr. authorised to sell his interest in the Deep Run coal pits.

I. WHEREAS it appears to the present general assembly, that Samuel Du Val, late of the county of Henrico, by his last will and testament, devised the one-fifth part of the Deep Run coal pits, lying in the said county, to his sons, William and Claiborne Du Val, in trust, for the support of Samuel Du Val, junior, and his children; that the rent of the said pits is very inadequate to that purpose, and it would be greatly to the advantage and interest of the said Samuel Du Val, junior, and his children, if the said trustees were authorized to sell the said coal pits in fee simple, and to vest one thousand pounds of the money arising from such sale in other lands, and the residue in slaves, for the benefit of the said Samuel, and the children that he now has, or may hereafter have:

II. *Be it therefore enacted*, That the said William Du Val, and Claiborne Du Val, as trustees of the last will and testament of Samuel Du Val, deceased, are hereby authorized and empowered to sell the said one-fifth part of the Deep Run coal pits so devised, in trust as aforesaid, and to convey the same by a deed or deeds, to the purchaser or purchasers thereof, in fee simple, and to vest one thousand pounds of the money arising from the sale of the said one-fifth part of the said coal pit lands, in the purchase of other lands, and the residue to be laid out in the purchase of slaves, between the ages of eight and twenty-five years, and that one-fourth part of the number of the said slaves to be females; which said lands and slaves are to be vested in the said trustees, for the benefit of the said Sam-

uel and his children, pursuant to the limitations and restrictions contained in the said last will and testament of the said Samuel Du Val, deceased.

III. *And be it further enacted*, That the said trustees shall give bond and security, in the penalty of three thousand pounds, for their faithful performance of the said trust reposed in them, and payable to the sitting justices of Henrico county court, for the benefit of the said Samuel Du Val and his children, which said bond shall be recorded in the said court, and may be put in suit by any person or persons, who may be injured by the said trustees not faithfully performing their said trust.

CHAP. CVII.

An act for establishing a town in the county of Lincoln.

I. WHEREAS it is represented to this present general assembly, that the laying off the village or township, known by the name of Harrodsburg, in the county of Lincoln, into lots and streets, and establishing the same by law, will be of public utility:

Town of Harrodsburg in Lincoln county, established.

II. *Be it enacted*, That the six hundred and forty acres of land allowed by law, including the said village or township, shall be, and the same is hereby vested in William Christian, John Brown, Robert Mosby, Samuel Lapsley, Peter Casey, John Smith, Samuel Taylor, John Cowan, John Gilmore, James Harrod, Abraham Chaplaine, William Kennedy, and Benjamin Logan, gentlemen, trustees, to be by them, or any seven of them, laid off into lots, with convenient streets, and established a town, by the name of Harrodsburg.

III. *And be it further enacted*, That such of the inhabitants of the said township who were residents therein on the first day of June, in the year one thousand seven hundred and seventy-nine, and have resided there ever since, or who have not obtained a certificate for a settlement and pre-emption from the commissioners

appointed in that country for adjusting claims to unpatented lands, agreeable to law, shall retain their just possessions; provided that such possessions shall not exceed half an acre for each family, for an in-lot, and ten acres each for an out-lot; and the said trustees, or a major part of them, shall convey to such claimants their possessions aforesaid, without any other consideration.

IV. The said trustees shall cause an accurate survey to be made of the said township, and after ascertaining the claims of the several persons who may have a right to lots, according to this act, shall proceed to sell the residue thereof, on twelve months credit, giving sufficient notice of the time of such sale, taking bonds with sufficient security, payable to themselves, as trustees aforesaid, and convey the said lots to the purchasers in fee; and that after deducting the surveyor's fees, and other incidental expences, together with five per centum for collection, shall settle their account on oath, before the supreme court for the district of Kentucky, and pay the balance into the public treasury. Upon the death, removal out of the county, resignation, or other legal disability of any of the trustees, the remaining trustees shall proceed to appoint others to such vacancies, as often as the same shall happen; and the said trustees so appointed shall individually be vested with the same powers, to all intents and purposes, as any one in this act particularly mentioned.

V. *And be it further enacted*, That the owners or purchasers of lots in the said town of Harrodsburg, shall, within three years from the day of sale, erect and build thereon a dwelling-house, of the dimensions of twenty feet by sixteen, at the least, with a brick or stone chimney, or on failure thereof, it shall and may be lawful for the trustees, or a major part of them, to re-enter and possess the same again, with full power to dispose of such lots so forfeited, for the best price that can be got, and apply the money arising therefrom to the use and advantage of the said town. The trustees aforesaid, or any seven of them, shall have power from time to time to settle and determine all disputes concerning the bounds of the said lots, and to settle such rules and orders for the regular building of houses thereon, as to them shall seem best and most

convenient. And the owners or purchasers of lots in the said town, so soon as they shall have built upon and saved the same, according to the directions of this act, shall be entitled to, and enjoy all the rights, privileges, and immunities, which the freeholders and inhabitants of other towns in this state, not incorporated, hold and enjoy.

CHAP. CVIII.

An act to establish a town on the lands of John Campbell, in the county of Jefferson.

I. WHEREAS it hath been represented to the general assembly, that John Campbell hath laid off one hundred and fifty-six lots, with convenient streets, opposite the lower falls of Ohio river, in the county of Jefferson, for the purpose of a town; and whereas, it hath also been represented, that it will be agreeable to the purchasers of the said lots, and an encouragement to settle thereon, if the same was established by law:

Campbell
Town, in Jef-
ferson coun-
ty, Kentucky,
established.

II. *Be it therefore enacted*, That the said one hundred and fifty-six lots, so as aforesaid laid off, be established a town, and called Campbell Town; and that Richard Taylor, Edmund Taylor, James Sullivan, Alexander Breckenridge, and Robert Breckenridge, gentlemen, be, and are hereby appointed trustees of the same; which said trustees, or a majority of them, are hereby authorized to make such rules and orders for the regular building therein, as to them shall appear most conducive to the good and convenience of the inhabitants, and have full power to settle and determine all disputes about the limits or boundaries of the said lots, and for the clearing, cleansing, and keeping in good order the streets thereof. In case of the death, resignation, removal out of the county, or any other legal disability, of any one or more of the said trustees, it shall be lawful for the remaining trus-

LAWS OF VIRGINIA,

tees, to elect and choose so many other persons in the room or stead of those deceased, resigned, removed, or disabled, which trustees so elected, shall be to all intents and purposes, vested with the same power and authority as any other in this act particularly appointed.

III. *And be it further enacted*, That so soon as the purchasers or owners of lots within the said town, shall have built thereon a dwelling-house of sixteen feet square, with a brick or stone chimney, such purchaser or owner shall be entitled to, have, and enjoy all the rights, privileges and immunities, which the freeholders and inhabitants of other towns in this state, not incorporated, hold and enjoy.

IV. *And be it further enacted*, That it shall not be lawful to build wooden chimnies within the said town; and if any person shall build, or begin to build, any wooden chimney or chimnies within the same, the trustees thereof may direct all such to be pulled down and demolished.

CHAP. CIX.

An act for appointing trustees to convey a tract of land, the property of Charlotte Dalton, to David Chevis.

Trustees to
convey a tract
of land of
Charlotte
Dalton to David
Chevis.

I. WHEREAS it has been represented to this present general assembly, that Charlotte, the wife of Samuel Dalton, was, previous to her intermarriage, entitled to a moiety of a tract of land in the county of Caroline, containing about one hundred and fifty acres, the possession whereof has lately been recovered by a suit at law; and whereas the said Samuel Dalton, and Charlotte his wife, being residents in the state of North-Carolina, derive little or no benefit from the said land, but it being contiguous to a tract belonging to a certain David Chevis, who, from that circumstance,

was induced to contract, and is willing to give for the same the sum of one hundred and fifty pounds, which is the full value thereof, but no legal sale or conveyance thereof can be made, the said Samuel Dalton prior to, and ever since the recovery of the possession of the said land, having been insane and incapable of transferring his property; and the said Charlotte Dalton, his wife, hath petitioned this assembly to confirm the title of the said David Chevis to a moiety of the said lands, upon payment of the purchase money:

II. *Be it therefore enacted*, That the moiety and right of the said Charlotte Dalton in and to the said tract of land, shall be, and the same is hereby vested in Samuel Dalton, William Dalton, Archelaus Hughes, and William Martin, gentlemen, trustees, and that they, or a majority of them, shall convey the same to the said David Chevis in fee, upon his paying the aforesaid sum of one hundred and fifty pounds to the said Charlotte Dalton, or other person authorized by him to receive the same.

CHAP. CX.

An act to empower Robert Mackey and John Peyton to build upon and convey certain lots in the common annexed to the town of Winchester.

1. *BE it enacted by the General Assembly*, That the Robert Mackey lot numbered "Fifty," the property of Robert Mackey, key and John and the lot numbered "Forty-nine," the property of Peyton permitted to John Peyton, in the common of the town of Winchester, build on certain lots in as the same are bounded and described in the plan the commons of Winchester, added and annexed to the said town; and it shall and may be lawful for the said Robert Mackey and John Peyton, their heirs or assigns, to lay off the same into convenient lots, and to sell and convey such lots

to any person or persons; and the purchasers shall hold the same freed and discharged from all restrictions or conditions in the deeds from the late proprietor of the Northern-Neck, prohibiting the erecting buildings thereon, or declaring the same inseparably annexed or appendant to certain lots in the said town:

**Lots annexed
to town.**

II. *And be it further enacted,* That the inhabitants and proprietors of the lots so annexed to the town shall be subject to the jurisdiction of the court of hustings and commonhall thereof, and shall have the same privileges and immunities as the other inhabitants of the said town enjoy.

CHAP. CXI.

An act to authorize the raising a sum of money by way of lottery, for completing a church in the borough of Winchester, and rebuilding a church in the parish of Elizabeth River, in the county of Norfolk.

**Lotteries au-
thorised for
building a
church in
Winchester
and in Nor-
folk county.**

BE it enacted by the General Assembly, That it shall and may be lawful for the minister and elders of the German Lutheran Church, in the borough of Winchester, to raise by way of lottery, a sum of money not exceeding five hundred pounds, to be by them applied towards completing a church in the said borough. And it shall also be lawful for the vestry of the parish of Elizabeth River, in the county of Norfolk, to raise by way of lottery, a sum of money not exceeding seven hundred pounds, for the purpose of rebuilding a church in the said parish.

CHAP. CXII.

An act to authorize the society of Free Masons, in the city Richmond, to raise a sum of money by way of lottery.

BE it enacted by the General Assembly. That it shall and may be lawful for the society of Free Masons in the city of Richmond, to raise, under the direction of the commonhall of the said city, a sum of money not exceeding fifteen hundred pounds, by way of lottery, for the purpose of erecting and completing a Free Mason's Hall in the said city; any law to the contrary thereof, notwithstanding.

Lottery authorised for erecting the Mason's Hall in Richmond.

CHAP. CXIII.

An act for establishing a town on the lands of Smyth Tundy, in the county of Amherst.

BE it enacted by the General Assembly, That fifty acres of land, the property of Smyth Tandy, lying at the place called and known by the name of New-Glasgow, in the county of Amherst, be, and they are hereby vested in Hugh Rose, Gabriel Penn, Samuel Meredith, John Wyatt, Charles Rose, and Samuel Jordan Cabell, gentlemen, trustees, to be by them, or a majority of them, laid out into lots of half an acre each, with convenient streets; which shall be, and is hereby established a town, by the name of Cabellsburg: That so soon as the said fifty acres of land shall be so laid off into lots and streets, the said trustees, or a majority of them, shall proceed to sell the same at public auction, for the best price that can be had, the time and place of which sale shall be previously advertised for

Town of Cabellsburg, in Amherst county, established.

one month in the Virginia Gazette. The purchasers to hold the said lots respectively, subject to the condition of building on each a dwelling-house, sixteen feet square at least, with a brick or stone chimney, to be finished fit for habitation within three years from the day of sale; and the said trustees, or a majority of them, shall convey the said lots to the purchasers in fee, subject to the condition aforesaid, and pay the money arising from the sale thereof to the said Smyth Tandy, or his legal representatives. The said trustees, or the major part of them, shall have power from time to time to settle and determine all disputes concerning the bounds of the lots, and to establish such rules and orders for the regular building of houses thereon, as to them shall seem best: And in case of the death, removal out of the county, or other legal disability, of any one or more of the said trustees, it shall be lawful for the remaining trustees to elect and choose other persons in the room of those dead or disabled; which trustees so chosen, shall, to all intents and purposes, be vested with the same powers and authority as any other in this act particularly nominated and appointed. The purchasers of lots in the said town, so soon as they shall have built upon and saved the same, according to the conditions of their respective deeds of conveyance, shall then be entitled to, and have and enjoy, all the rights, privileges, and immunities, which the freeholders and inhabitants of other towns in this state, not incorporated, hold and enjoy. If the purchaser of any lot shall fail to build thereon within the time before limited, the said trustees, or a majority of them, may thereupon enter into such lot, and sell the same again, and apply the money for the benefit of the inhabitants of the said town. *Provided always,* That nothing herein contained shall be construed or taken to give the said trustees a power to lay out into lots, or dispose of such parts of the said fifty acres of land, on which there are any buildings, orchards, or gardens.

GENERAL ASSEMBLY

BEGUN AND HELD,

At the Public Buildings in the City of Richmond, on Monday the sixteenth day of October in the year of our Lord one thousand seven hundred and eighty-six, and in the eleventh year of the commonwealth.

Patrick Henry, esq. governor.

CHAP. 1*.

An act for appointing commissioners to liquidate and settle the expences incurred in two expeditions carried on from the Kentucky district against the neighbouring Indians.

WHEREAS the citizens of this commonwealth in the district of Kentucky, have lately carried on two expeditions against the neighbouring tribes of Indians, and it is reasonable that such services should be rewarded, *Be it therefore enacted by the General Assembly*, That Edmund Lyne, Isaac Shelby, and Richard Taylor, gentlemen, (any two of whom shall be a board) shall be, and they are hereby appointed commissioners to settle and adjust all claims for pay and rations due prior to the twentieth day of October last, of the officers, soldiers, and those employed in the staff department, lately under the command of general

Commissioners to settle accounts of expeditions from Kentucky against the Indians.

* The 1st, 2d, 3d, 4th, 5th, and 6th chapters of the acts of this session are not numbered in the originals.

George Rogers Clarke, and colonel Benjamin Logan, against the Shawanese and Wabash indians, and also the claims of all those who have furnished arms, ammunition, provisions, salt, horses, halters, pack-saddles, bells, ropes, bags, axes, kettles, ferriage, pasturage for beef cattle, and provender and forage for the dragoon and drovers horses, by impressment or otherwise for the purpose of carrying on the said expeditions: and also to liquidate the accounts of those who have or may furnish provisions, clothing or other necessities for the Indians prisoners in that district, until they may be exchanged or released. And all those who have made impressments necessarily for the use of the said expeditions shall be and are hereby indemnified. The said commissioners shall grant certificates under their hands to those entitled thereto, in the same manner as the auditors of public accounts have heretofore granted certificates for militia service and supplies, taking for their rule the prices allowed by law for militia services, and the cash prices of all other articles which may have been furnished: *Provided*, That no officer in the staff department shall receive any greater allowance than is made to officers holding the same appointment in a brigade: *Provided also*, ¶ That no subaltern officer or soldier shall receive any certificate for pay unless he shall produce to the said commissioners, from the officer commanding the company to which he belongs, and also from one of the field officers of the regiment, a certificate of his having faithfully served during the said expeditions; and that no captain or field officer shall obtain such certificate unless he shall produce to the said commissioners a similar certificate signed by the commanding officer of his regiment and countersigned by the said George Rogers Clarke or Benjamin Logan. . *Provided also*, That where arms or any other article above mentioned have, since the said expeditions, been returned to the owners instead of certificates for the value, they shall receive certificates equal to the time their property was in the public service, and also for the injury such property may have received during that time. The commissioners hereby appointed shall meet at the town of Danville, in the county of Mercer, as soon as may be after the receipt of this act; and may adjourn from day to day, or to any other place or places within the dis-

strict, and sit until the business is completed. They shall appoint a clerk who shall make entries, in a book to be kept for that purpose, of the names of all persons; and the amount of certificates issued to them: and shall transmit the same to the treasurer with an alphabetical list of such names, as a security against counterfeits, frauds or errors. The clerk shall transmit to the executive a certificate of the number of days the commissioners shall respectively have been employed in liquidating said claims, and the number of miles they have travelled: who shall make them and their clerk such allowances as their services deserve, to be paid in the same manner as warrants given to the officers of government. *And be it further enacted*, That the certificates thus issued shall be receivable in discharge of any of the taxes which may hereafter become due in the said district. Counterfeiters of certificates issued under this act shall be punished as counterfeiters of militia certificates heretofore issued by the auditors of public accounts. In case of the death resignation, refusal to act, or any other legal disability of any of the commissioners hereby appointed, the judges of the supreme court of the district of Kentucky shall have power to appoint others instead of those dead, resigned, or otherwise legally disabled.

And whereas it is just that every part of the state should contribute to the support of government, *Be it therefore enacted*, That in each of the counties of the said district, the court shall appoint commissioners of the tax, cause lists of the taxable property in the said county to be taken, call upon the sheriff or collector to give bond and security, and in all other instances fully carry into execution the laws for raising a permanent revenue within this state: *Provided*, That no sheriff or collector shall have a right to call upon the people, or shall himself be accountable for any taxes which shall have become due prior to the last day of January one thousand seven hundred and eighty-seven.

Provided always, and be it further enacted, That tobacco shall be receivable for taxes within the said district after the rate of twenty shillings per hundred, in like manner as provided in other cases by an act of the present session, intituled, "An act to enable the citizens of this commonwealth to discharge certain taxes by the payment of tobacco."

And provided also, That the lands in the said district allotted by law to the officers and soldiers, who served in the army of the United States or this state; and which have not been aliened, shall not be subject to taxation, until the future direction of the legislature.

CHAP. II.

An act to amend the act for regulating and disciplining the militia, and for other purposes.

Militia to be
allotted for a
regular rou-
tine of duty.

FOR the more effectual execution of the laws now in force, for regulating and disciplining the militia, *Be it enacted by the General Assembly, That* on or before the first day of May next, the county lieutenants or commanding officers in the respective counties within this commonwealth, also in the city of Williamsburg and borough of Norfolk, with the field officers and captains shall meet on a day to be appointed by the county lieutenant or commanding officer, who are hereby required to enroll the militia within their several counties and corporations, into distinct companies; and thereafter the captain or commanding officer of each respective company, shall forthwith proceed to divide his company into divisions, by ballot, from one to ten, for the purpose of a regular routine of duty when called into actual service, and shall return a roster of each division and its number in rotation within ten days, to the county lieutenant, or commanding officer of his county or corporation; any officer of the militia, called into actual service, neglecting or refusing to do his duty, shall forfeit his commission, and moreover be amerced at the discretion of a court martial, that is to say, a county lieutenant in any sum not exceeding one hundred and fifty pounds; a colonel or lieutenant colonel not exceeding one hundred pounds; a major not exceeding seventy five pounds; a captain not exceeding

Fines, in ac-
tual service.

fifty pounds; a lieutenant or ensign in any sum not exceeding forty pounds; and non-commissioned officers or privates in like manner refusing or neglecting shall also be fined at the discretion of a court martial in any sum not exceeding twenty pounds each: *Provided always*, That the penalties and forfeitures herein imposed on field officers, captains and subalterns, in case of failure or refusal as aforesaid, shall be subject to the approbation of the executive with power to remit or enforce the same. *And be it further enacted*, That every captain or commanding officer of a company shall return on oath, a list of all delinquencies, which may have happened in his company since the last court of enquiry or assessment of fines in his county or corporation, to the county lieutenant or commanding officer, on the day of each succeeding general or regimental muster, or court of enquiry and assessment of fines, which shall be held on the day next succeeding the day of holding any general or regimental muster, if fair, if not the first fair day, which said general or regimental muster shall be held by order and appointment of the county lieutenant, or in case of his absence, of the next commanding officer of the militia.

List of delinquencies how returned.

And be it further enacted, That officers of the militia, who have been reinstated in their commissions under the act of the last session of assembly and shall fail or neglect to qualify to the same on or before the first day of May next, shall be considered as having resigned the same, and the respective county courts shall forthwith proceed to recommend other proper persons to be commissioned in their room. Any field officer or commanding officer of a company failing to perform any duty herein prescribed to him, for which no penalty is imposed, shall be fined at the discretion of a court martial or court of enquiry, not exceeding to a field officer the sum of thirty pounds, and to a commanding officer of a company not exceeding fifteen pounds.

Officers failing to qualify considered as resigned.

Fines on officers.

And whereas, it is expedient, that upon a deficiency of the contingent fund, the power of impressment should be exercised in case of invasion or insurrection.

Be it therefore enacted, That upon any invasion or insurrection, it shall be lawful for the governor, with the advice of the council, to procure by impressment whatsoever supplies may be necessary, and may be

Impressment of supplies authorised, in case of invasion or insurrection.

unattainable by purchase. But whensoever the power of impressment shall be exercised, the mode of valuation shall be the same with that prescribed in the above recited act, for procuring by impressment a waggon and team; and due care shall be used for rendering this act of authority as little burthensome as possible, to those who may become subject thereto. *And be it further enacted*, That in case of any invasion or insurrection, the county lieutenant or commanding officer, shall give immediate notice thereof to the governor, under the penalty of fifty pounds; for any money expended in sending such notice, he may appropriate a reasonable sum arising from fines in his county, or if they be not sufficient, he may receive a like reasonable sum from the contingent fund, on a warrant from the executive. For the trial of a county lieutenant or commanding officer, the governor with advice of council, may direct a court martial to be holden by any militia officers whatsoever, constituting the same according to military usages.

How notice
to be given.

Court-martial
how constitu-
ted.

Recovery of
fines.

A county lieutenant or commanding officer failing to account for fines according to the above recited act shall be liable to the penalty of one hundred pounds.

All fines and penalties imposed by this or the above recited act except where the jurisdiction thereof is specially given to courts martial, shall be recovered on the motion of the solicitor, or any individual in any court of record, on ten days previous notice in writing; on the motion of the solicitor the whole fine or penalty shall be adjudged for the use of the commonwealth and on the motion of an individual to that individual.

Second lieuten-
ant dis-
continued.

In companies having two lieutenants, the second lieutenant shall be considered as no longer in office. Whensoever officers shall be commissioned for a light company, and shall fail to raise their men, the said officers shall claim no rank or privilege by such commissions. And it shall be lawful for the executive to fix a day by which such commissions shall be vacated ipso facto, unless the complement be raised by that time.

Light compa-
nies not com-
pleted, vacated.

Captains and
subalterns
appointed to
complete de-
tachments.

If by any accident a sufficient number of captains and subalterns should not attend any detachment at the place of rendezvous, they may be appointed in the same manner as field officers in such cases.

So much of all and every act or acts as comes within the purview of this act, shall be and is hereby repealed.

CHAP. III.

An act for reviving, continuing and amending an act to revive and amend in part an act for giving further time to enter certificates for settlement rights, and for locating warrants upon pre-emption rights, and for other purposes.

WHEREAS the act of assembly passed in the year one thousand seven hundred and eighty-four, intituled, "An act to revive and amend in part an act for giving further time to enter certificates for settlement rights, and for locating warrants upon pre-emption rights, and for other purposes," which was continued by several subsequent acts, did expire on the first day of November last, and it is expedient that the same should be revived, continued, and amended, *Be it therefore enacted*, That the said recited act shall be revived and continue in part, and be in force until the last day of December, one thousand seven hundred and eighty seven, within which time the register of the land office or his deputy, shall receive all platts and certificates of survey although not returned within the time heretofore limited by law, and such lands shall not be considered as forfeited or liable to a forfeiture on that account.

And whereas the time allowed by law for entering certificates for settlement rights is expired, and it being adjudged necessary that the same ought to be revived and continued, *Be it therefore enacted*, That it shall and may be lawful for the surveyors of this commonwealth within their respective counties at any time before the said last day of December, to receive and enter all such certificates, or the attested copies of such as shall be lost, and to proceed to survey the same as the law directs. *Provided*, such attestation be made by the commissioners who granted the same, or by the clerk of the superior court of the district of Kentucky, or the register of the land office.

County courts
not to grant
certificates
for such
rights.

Provided also, and be it further enacted, That no county court within this commonwealth, shall, after the passing of this act, exercise a power of granting certificates for settlement or pre-emption rights.

Time allowed
for obtaining
and entering
pre-emption
warrants.

And whereas sundry persons have been prevented by unavoidable accident from obtaining and entering pre-emption warrants before the register of the land office was prohibited from issuing any more warrants by a resolution of the general assembly, *Be it further enacted, That all such persons shall be allowed until the said last day of December, to obtain and enter such warrants. And that every person intitled to a pre-emption warrant as aforesaid, shall pay into the public treasury thirteen shillings and four pence for every hundred acres of land in specie or audited certificates in full for the state price heretofore required, which being audited and a certificate thereof produced to the register of the land office, the said register is hereby authorized and directed to issue such warrant to the party entitled to the same or to his assigns.*

Considera-
tion.

Time limited
for surveying
entries on
eastern wa-
ters, and ma-
king returns
to land office.

And whereas by sundry acts of assembly entries and surveys on the eastern waters have been hitherto protected from forfeiture, and it is reasonable that a certain time should be limited for surveying such entries and making return thereof to the land office, *Be it therefore enacted, That the entries for lands on the eastern waters, which have been legally made before the first day of January, in the year one thousand seven hundred and eighty, except entries made within the district of the Northern Neck, shall proceed to survey the same with all practicable dispatch, which surveys, together with those already made and founded upon entries of the above description, shall be returned into the register's office on or before the first day of October, one thousand seven hundred and eighty eight, and not after, and on failure of such surveys being made and returned on or before the said first day of October, one thousand, seven hundred and eighty eight, such lands are hereby declared vacant, and shall be liable to be located in the same manner, as other unappropriated lands within this commonwealth. And be it enacted, That the owners of entries for lands within the district of the Northern Neck regularly made before the seventeenth day of October in the year of our Lord one thousand seven hundred and eighty*

For survey-
ing entries in
Northern
Neck.

five, shall proceed to survey the same, which surveys, together with those already made upon like entries, shall be returned into the register's office on or before the said first day of October one thousand seven hundred and eighty-eight, and on failure such entries are hereby declared void, and the lands liable to be located in the same manner as other unappropriated lands within the said district. And the composition upon grants issued from the register's office on surveys under entries made as aforesaid may be paid either in specie or audited certificates.

Composition,
in what pay-
able.

And whereas many surveys regularly made and returned into the proprietor's office before the said seventeenth day of October one thousand seven hundred and eighty-five, have been ungranted until they have become forfeited according to the rules of the said office, and it is reasonable the same indulgence should be extended to the people within the said district, as to the other citizens of this commonwealth, *Be it enacted*, That the owners of such surveys may, before the said first day of October one thousand seven hundred and eighty-eight, apply to and obtain from the register grants for the same upon paying the quitrents and composition due thereon in manner aforesaid, and on failure thereof the lands contained in such surveys shall be forfeited and may be granted in the same manner as other unappropriated lands within the said district. And any person possessing high lands within the said district to which any swamps, marshes, or sunken grounds are contiguous and not already appropriated shall have the pre-emption of such swamps, marshes or sunken grounds at the rate of twenty-five pounds by the hundred acres, until the said first day of October one thousand seven hundred and eighty-eight: And if such person shall not obtain a grant for such swamps, marshes, or sunken grounds before that time, then any other person may enter on and obtain a grant for the same in like manner as is directed for other unappropriated lands within the said district.— But nothing herein contained shall be construed or extend to give liberty to any person to locate or obtain a grant for any unappropriated swamps, marshes or sunken grounds lying contiguous to the high land of any feme covert, infant, person not being compos mentis, or person out of the commonwealth, but such per-

Grants on
surveys re-
turned to
proprietor's
office, how
obtained.

Pre-emption
in swamps,
marshes, or
sunken
grounds, in
Northern
Neck.

Saving to
femes covert,
&c.

sons shall be allowed twelve months after the removal of their several disabilities for the pre-emption of such lands.

Caveats entered on Northern Neck, how proceeded in.

And be it further enacted, That where any caveat hath been entered in the proprietor's office of the Northern Neck before the seventeenth day of October in the year of our Lord one thousand seven hundred and eighty-five, the person who entered such caveat shall, within twelve months next following, assign the causes thereof in the register's office, and proceed to prosecute the same, and on failure the same shall be taken and deemed dismissed, and a grant for the lands so caveated shall issue to the person, his assignees, or legal representatives, in whose favor the survey was made.

Consideration for land-warrants on eastern waters, how payable.

And whereas the act passed at the last session of assembly, intituled "An act to dispose of the waste and unappropriated lands in the commonwealth of Virginia on the eastern waters," directs that a composition of twenty five pounds, for every hundred acres of the said lands should be paid by the person or persons who shall obtain a warrant for the same. *Be it enacted,* That from and after the passing of this act the composition aforesaid may be paid in auditors warrants or audited certificates, any thing in the said recited act to the contrary notwithstanding.

CHAP. IV.

An act making further provision for the erection of the district of Kentucky into an independent state.

Further provision for the erection of the district of Kentucky into an independent state.

WHEREAS it appears that the representatives elected in pursuance of the act, entitled, "An act concerning the erection of the district of Kentucky into an independent state," have been hindered by unforeseen events from meeting at the time proposed, and determining the question referred to them; and it is con-

sidered that no such determination can now take place within the time necessary for its receiving the assent of congress prior to the first day of June next, as required by the act under which the said representatives were elected.

And whereas it continues to be the purpose of the general assembly, that the said district shall become an independant state, on the terms and conditions specified in the act aforesaid, whenever the good people thereof shall so determine and the United States in congress shall thereof approve; *Be it enacted by the General Assembly*, That in the month of August next, and on the respective days and places of holding courts in the several counties within the said district, five representatives for each county to continue in appointment for one year and to compose a convention with the powers and for the purposes herein after mentioned, shall be elected by the free male inhabitants of the county. The elections shall be conducted in like manner with the like promulgation of this act to the electors, and with the like penalties for neglect of duty in the officers, as were prescribed for the elections held under the act above recited. The convention shall be held at Danville on the third Monday of September ensuing, or whenever thereafter a sufficient number shall be assembled. Five members assembled shall be a sufficient number to adjourn from day to day, and to issue writs for supplying vacancies which may happen from deaths, resignations, or refusals to act. A majority of the whole shall be a sufficient number to chuse a president and other proper officers, to settle the proper rules of proceeding, to authorize any number of members to summon a convention during a recess, and to act in all other instances, where a greater number is not expressly required. Two thirds of the whole shall be a sufficient number to determine whether it is expedient for and be the will of the good people of the said district, that the same be erected into an independant state, on the terms and conditions specified in the act above recited: *Provided*, That no vote shall be considered as deciding this question either in the affirmative or negative, unless a majority of the whole number to be elected shall concur therein.

And provided, That in case two thirds of the whole shall not assemble within fifteen days after the day ap-

pointed for the meeting, a decision in which a majority of the whole shall concur, shall be valid although the number present be less than two thirds of the whole.

And be it further enacted, That in case the said convention shall approve of an erection of the said district into an independant state, on the terms and conditions above referred to, they shall and may proceed to fix a day not later than the first day of January one thousand seven hundred and eighty nine, on which the authority of this commonwealth and of its laws under the exceptions, specified in the act above recited, shall cease and determine forever over the said district, and the articles specified in the said act shall become a solemn compact mutually binding on the parties, and unalterable by either without the consent of the other.

Provided however, That prior to the fourth day of July one thousand seven hundred and eighty eight, the United States in congress shall assent to the erection of the said district into an independant state, shall release this commonwealth from all its foederal obligations arising from the said district, as being part thereof, and shall agree that the proposed state shall immediately after the day fixed as aforesaid, or at some convenient time future thereto, be admitted into the foederal union. And to the end that no interval of anarchy may happen to the good people of the proposed state; It is to be understood that the said convention shall have authority to take the necessary provisional measures for the election and meeting of a convention at some time prior to the day fixed for the determination of the authority of this commonwealth and of its laws, and subsequent to the notified assent of congress to the proposed erection of the said district into a independent state, with full power and authority to frame and establish a fundamental constitution of government for the proposed state, and to declare what laws shall be in force therein, until the same shall be abrogated or altered by the legislative authority acting under such constitution. This act shall be transmitted by the executive to the delegates representing this state in congress, who are hereby instructed to use their endeavors to obtain from congress a speedy concur-

rence in the measure proposed by this act, and the act heretofore passed, intitled "An act concerning the erection of the district of Kentucky into an independent state."

CHAP. V.

An act to provide for the appointment of delegates to represent this commonwealth in congress, until the first Monday in November next.

BE it enacted by the General Assembly, That five delegates shall be chosen by joint ballot of both houses to represent this commonwealth in congress, from the time of their appointment until the first Monday of November one thousand seven hundred and eighty seven; three of whom at least shall be constantly attending the duties of their office. The persons so appointed shall each of them have from the governor a credential varied so as to suit the present occasion, and shall be entitled to the same allowances as are provided by an act, "For regulating and fixing the salaries of the officers of civil government."

Election of delegates to congress.

Credentials.

CHAP. VI.

An act to amend the act entitled An act for ascertaining certain taxes and duties, and for establishing a permanent revenue.

BE it enacted by the General Assembly, That the clerk of every county court within this commonwealth shall, on receipt of this act (which the executive is here-

Commissioners of the revenue to be appointed in each county.

by required to send immediately by express, or other safe and certain conveyance) lay the same before the next court to be held for his county, and the court shall immediately proceed to appoint discreet and reputable persons to be commissioners for the purposes herein after mentioned; and in those counties, where more than one commissioner is directed to be appointed, the said courts shall also distinctly lay off and ascertain the bounds of the district allotted to each commissioner: In each of the counties of Augusta, Botetourt, Culpeper, Fauquier, Greenbrier, Loudoun, Harrison, Jefferson, Lincoln, Monongalia, Montgomery, Nelson, Ohio, Fayette, Mercer, Madison, and Bourbon, there shall be appointed three commissioners; in each of the counties of Accomack, Albemarle, Amherst, Bedford, Berkeley, Amelia, Brunswick, Buckingham, Campbell, Caroline, Charlotte, Chesterfield, Cumberland, Dinwiddie, Fairfax, Franklin, Frederick, Fluvannah, Gloucester, Goochland, Greensville, Halifax, Hanover, Henrico, Henry, Isle of Wight, King and Queen, King George, Essex, Louisa, Lunenburg, Mecklenburg, Nansemond, Norfolk, Northampton, Orange, Pittsylvania, Prince Edward, Prince William, Princess Anne, Richmond, Rockbridge, Rockingham, Shenandoah, Southampton, Spottsylvania, Stafford, Surry, Sussex, Westmoreland, Northumberland, Hardy, Hampshire, Washington, and Russel, there shall be appointed two commissioners; and in each of the counties of Powhatan, Charles City, Elizabeth City, King William, James City, Lancaster, Middlesex, New Kent, Warwick, Prince George, and York, and in the city of Williamsburg, and Richmond, and the towns of Petersburg, Alexandria, Fredericksburg, and Winchester, and borough of Norfolk there shall be appointed one commissioner. *Provided*, That no member of either house of assembly, persons holding any office in civil government, receiving stated salaries, naval officers, practising attornies, or physicians, clerks of courts, inspectors, ordinary keepers, sheriffs or their deputies, or persons that have been in the office of sheriff, deputy sheriff, or collector of public taxes in their county, shall not be capable of acting or serving as commissioner, unless it shall appear by sufficient testimony, other than the parties own oath, that such sheriff or collector hath completed his collection, fully

paid the amount thereof into the treasury, and finally closed every account relative thereto. *And be it enacted*, That the clerk of the court shall certify to every commissioner his appointment without delay, and at the same time furnish him with a copy of this act; the proof whereof shall rest upon the clerk, and thereupon each commissioner shall repair to some acting magistrate of the county, and take the following oath or affirmation, to wit: "I, A. B. do swear (or solemnly, sincerely, and truly declare, and affirm) that as commissioner for

Oath.

county, city, town, and borough of Norfolk, I will to the best of my skill and judgment, diligently and faithfully execute the duties of the said office, according to the directions of the act, entitled, An act to amend the act, entitled an act for ascertaining certain taxes and duties, and for establishing a permanent revenue, without favour, affection or partiality, and that I will do equal right and justice, according to the best of my knowledge in every case in which I shall act as commissioner: So help me God."

A certificate of which oath or affirmation shall be given the commissioner by the magistrate administering it, and the magistrate shall also certify the same to the next court held for his county to be recorded. *And be it enacted*, That every commissioner thus qualified, shall perform the following duties within his district:

He shall in the first place, apply to the clerk of the court for the books of the commissioners, appointed under the act for equalizing the land tax, which book or books, the commissioners of the land tax are hereby directed to deliver to the said clerk on application; and in case of refusal or neglect, or loss of such book or books, the clerk shall certify the same to the executive, who, for such refusal or neglect, shall direct the solicitor to proceed to recover the fine hereby imposed, and moreover to furnish such clerk with an attested copy of the land tax from the last statement on the equalizer's books; and the clerk, upon being furnished with such book or books, either by the commissioners of the land tax, or from the solicitor's office, shall aid and assist the commissioners appointed by this act, in selecting therefrom the owners name, and the tax on every tract of land or lot within each district, in the following manner, and in the form hereto subjoined. There shall be entered in one column the owners names in al-

Their duty
in ascertaining the land
tax.

phabetical order, the number of acres or lots, the rate at which such land is valued by the acre, the amount or total value of each tract or lot of land, and the tax payable thereon; which book the said commissioner shall keep (leaving a fair copy in the clerk's office, which copy the clerk shall make) so long as he shall continue in office, and on his death, resignation, or inability to act, shall be delivered to the succeeding commissioners for the district. And every commissioner shall in the said book note from time to time all such alterations, alienations, divisions and additions as may happen within his district, and shall also perform all the duties of the commissioners of the land tax, and be entitled to the same fee for making entry of alteration or alienation as set forth by an act of assembly passed at the October session in the year one thousand seven hundred and eighty two, entitled, "An act for equalizing the land tax." And the clerks of the county, and of the general court, are hereby directed to make return to the said commissioners instead of the former commissioners, of all deeds recorded in their respective courts, and the register of the land office of all patents, as they are directed by the said last recited act.

Lists of taxable property how taken

And be it further enacted, That the said commissioners shall severally on the tenth day of March annually, begin and continue proceeding without delay through their respective district, and call on every person subject to taxation, or having property in his or her possession or care, on which any tax is imposed, for a written list thereof, which list being corrected, if necessary, and distinctly read over by the commissioner to the person delivering the same, he or she shall then make oath or affirmation, that such list contains a just and true account of all persons; and of every species of property in his or her possession or care, within that district (land only excepted) subject to taxation, on the ninth day of March then next preceding, and that no contract, change, or removal whatever, of property had been made or entered into, or any other method devised, practised or used, in order to evade the payment of taxes; which oath or affirmation the commissioner is hereby empowered and directed to administer.

And be it further enacted, That each of the said commissioners shall, after collecting the lists of property from the inhabitants of his district in manner before directed, make four alphabetical general lists therefrom, shewing in columns according to the form hereto also annexed, the date when each list was received, the persons chargeable with the tax or taxes, and the number or quantity of every species of property, inserting particularly the names of all free males subject to tax, distinguishing those also subject only to parish and county levy, which list shall be kept and delivered in the following manner. Each commissioner shall retain one of those lists in his own possession, so long as he continues in office, and afterwards to be delivered to his successor as in the case of the land tax books; one other of the lists, together with the lists taken from the individuals in his district shall be returned to the clerk, who shall examine the same, and if found to be erroneous, either in addition or otherwise, to correct the others, and then certify them to be true copies: The list in the clerk's office shall serve for laying the county levy, and fixing the poor rates, and be subject to the inspection or examination of every person who may choose to examine the same. *Provided,* they be not taken out of the said clerk's possession, and copies may be had at the charge of the person or persons desiring the same. One other of the said lists, after being certified by the clerk, shall be delivered by the commissioner to the high sheriff of the county, as his guide to collect the taxes, and the remaining fourth list, being also certified by the clerk, shall be transmitted by the commissioner to the solicitor's office, there to be minutely examined, and to be produced by the solicitor and admitted as evidence by the general court, for the amount of taxes charged the sheriff: All which lists, it is hereby declared to be the duty of the several commissioners to have delivered to the several persons or officers on or before the last day of May annually, and the said commissioners shall take a receipt or acknowledgment in writing of the delivery of such lists. *And be it further enacted,* That the said commissioners shall also at the time of delivering the lists of taxable property herein before directed, deliver to the clerk of his county, at the solicitor's office, a fair and correct copy of the state of the land tax, noting the

Commissioners to make four lists.

How to dispose of them.

State of land tax.

alterations, alienations, divisions and additions that may have taken place in the preceding year, within his district, to enable the clerk to adjust his book of the land tax, and the solicitor to adjust the equalizer's books; and the book containing the land tax, together with the annual returns of the several commissioners lodged in the clerk's office, shall be subject at all times to the inspection of every person, in like manner as the lists of taxable property, and the said commissioners shall also deliver to the sheriff an exact list of taxes, due from all and every person or persons for land within his district, to enable the sheriff to proceed in his collection.

**Penalty on
commission-
ers refusing
to act.**

And be it further enacted, That in case any person appointed to the office of commissioner under this act, shall refuse to serve, not having a reasonable excuse in the opinion of the court of the county, he shall, for such refusal, forfeit and pay the sum of thirty pounds: Any commissioner, after having served one year, may resign his office; provided that he gives notice to the court of his county, at some court after completing the lists of taxable property, and previous to the month of January, to enable them to appoint a successor, without delaying the public business, and upon the refusal to act, notice of resignation, death, or inability of any commissioner, it shall be the duty of the court of such county, immediately to appoint a successor, and the clerk is directed to call for all papers in the preceding commissioners hands, or his legal representatives, who, on refusal or neglect of delivering them, shall be liable to the same penalty as the commissioners of the land tax, and in case they be lost, shall be furnished on application as herein before directed.

**Vacancies
how supplied**

**Allowances
to clerk and
commissioners**

And be it further enacted, That the court of each county shall make such allowances to the clerk for his services under this act, as they shall think reasonable, to be included in the county levy; and to allow to each of the commissioners for their services the sum of six shillings for every day they shall severally make satisfactory proof to the court, to have been *bona fide* engaged in the execution of this act, and, shall moreover be exempted from military duty during their continuance in office. The sheriff of each county is hereby directed and empowered to pay to the commissioners respectively, the amount of their several allowances on

receiving the clerk's certificate therefor, and the amount of such certificates with the parties receipts shall be credited the sheriff by the auditor of public accounts, in the settlement of his account of taxes, and shall be made good out of the taxes appropriated to the payment of the salaries due the officers of civil government.

And be it further enacted, That if any person shall give or deliver to a commissioner, a false or fraudulent list of persons or property subject to taxation, or shall refuse to give a list, on oath or affirmation, when required by the commissioner, the person or persons so refusing shall be liable to a fine of five pounds, and the commissioner shall proceed to list such persons property, agreeable to the best information he can procure, and all such property so ascertained shall be moreover subject to a treble tax, to be collected and distrained for by the sheriff, as in other cases; and in the case of an imperfect, false or fraudulent list, the person giving the same shall be subject to pay a fine of five pounds, and the property subject to a treble tax, which fines and treble taxes shall be recovered in the county court, by the following mode of proceeding, and applied as herein after directed. The commissioner shall give information thereof personally, and if unable to attend, in writing, under his hand, to the next court held for his county, which court shall forthwith direct the clerk to issue a summons, requiring the party to appear at the next court to be held for the county, to shew cause, if any he can, why he should not be fined and treble taxed for giving in an imperfect or fraudulent list of taxables, and the person or persons, upon being served therewith by the sheriff, and appearing, shall immediately plead to issue, and the matter thereof shall be enquired into by a jury, or the court, at the defendant's option, and on conviction, or the person failing to appear upon being summoned, the fine and treble tax shall be established by judgment of the court, who, unless good cause be shewn at the next succeeding court for such failure, shall award execution for the fine, and certify the amount of the tax to the sheriff for collection, and to the solicitor's office; the amount of which fine after deducting thereout as much as may be necessary to pay the clerk and sheriffs fees, and such allowance as the court may think reasonable to make

Penalty for delivering false lists, or concealing property.

Proceedings thereon.

the commissioner for his extraordinary trouble on the occasion, shall be applied towards lessening the county levy; and the treble tax shall be charged to the sheriff, and accounted for in like manner as the other taxes: The clerk of the court shall set up at the door of his courthouse, a copy of the proceedings in such cases, on the succeeding court day.

Duty of all persons to inform.

And for preventing frauds or impositions upon commissioners, *Be it further enacted*, That every person or persons having knowledge of any incorrect, false or fraudulent list being given a commissioner, shall give information thereof either to a commissioner, or the county court in like manner as the commissioner is directed, and thereupon the same mode of proceeding shall be had, as if the commissioner gave information and the person informing shall be entitled to and receive one half of the fine imposed on the offender or offenders, to his own use, and the other half after paying costs, to be applied towards lessening the county levy. The clerk of every county court shall transmit to the governor a fair and attested copy of all proceedings had at his court, in pursuance of this act, immediately after every court, noting therein, the names of the sitting magistrates, which attested copy shall be admitted as proof on any motion in the general court by the solicitor for the recovery of any fine imposed by this act. The clerk, justices, or commissioners failing to perform any one of the duties imposed on them respectively by this act, or the commissioners of the land tax or their legal representative, refusing or neglecting to deliver the books of the land tax in their possession to the clerk shall be subject to a fine of fifty pounds to be recovered by motion on any day, at either of the sessions in the general court, at the instance of the solicitor, notice of such motion being previously given in the same manner as to delinquent sheriffs.

Fines.

If proprietor absent when commissioner calls, how list may be given in.

And be it further enacted, That in case any person should be absent from his or her place of residence at the time the commissioner calls to receive the list, and it should appear to the commissioner that such absence was not intentional, or done with a view of avoiding the delivery of such list, it shall be lawful for the commissioner to require the attendance of such absent person, with his or her list, at any time and place within the said district: *Provided*, such person tenders his

or her list to the commissioner and makes oath to the justness of it on or before the twenty fifth day of May annually, and in case of failure, the commissioner shall proceed in like manner as is before directed in cases of refusal to give in lists; and the court shall determine from the circumstances of the case, whether to inflict or remit the fine and treble taxes.

And be it further enacted, That a list of all the insolvents returned by the sheriff to the court shall be transmitted by the clerk to the commissioners of the tax, to be entered on their book of taxes for that year, and no sheriff shall have credit for such insolvents, in his account with the public, unless certified by the said commissioners to have been allowed by the court, and the said commissioners shall moreover transmit with the said lists of insolvents an account of the tax of any person who may have removed out of the county, together with the name of the county to which they have removed, which account the auditors are hereby directed to transmit to the commissioners of the tax of the county to which they have removed, to be charged on their books and collected by the sheriff. An account of all fines or additional taxes imposed by virtue of this act shall be by the said commissioners transmitted to the solicitor's office before the first of August annually. And the said commissioners shall state in their book of taxes a general account with the sheriff for all taxes, fines and additional taxes in their county crediting him for all insolvents and for the allowances made to the commissioners for their salaries, which allowances to the commissioners, the sheriff shall have credit for in his account with the public and also for all payments made by the said sheriff to the public, receipts for which shall be by the said sheriff transmitted to the said commissioners within twenty days after obtaining the same, a copy of which account shall be by the said commissioners transmitted to the solicitor's office before the first day of May annually.

Insolvents,
how allowed.

And whereas it may so happen from bad weather or other unavoidable accidents that some of the courts and commissioners may not within the time directed by this act proceed to execute the several duties therein required of them, but nevertheless they are hereby directed and empowered to proceed to execute the same so soon after as may be. And as no provision is made

How commissioners to give in their own taxable property

in what manner the commissioners are to give in their taxable property, *Be it therefore enacted*, That they shall severally make a return on oath to their respective courts a list of all their taxable property, and shall enter the same in the several lists to be by them returned to the different persons and public officers, and on failing to comply herein shall be liable to be proceeded against in the same manner and subject to the same penalties as in case of any other neglect.

Commissioners for corporations.

And be it further enacted, That the courts of the several towns and corporations herein before mentioned are authorised and directed to proceed to appoint commissioners in like manner as the county courts do, which said commissioners when appointed shall within their several towns and corporations execute their office under the same restrictions and regulations as those appointed by the county courts; and on failure of the courts or clerks of the different towns and corporations to do the duty hereby required of them they shall be subject to the same penalties as the county courts and clerks of county courts are.

Land tax
book, form
of.

Form of keeping the Book containing the Land Tax by the Commissioner.

List of the Land Tax within the district of A. B. Commissioner in the county of C.

Persens names owning land	Number of lots	Yearly rent of lots.	Quantity of land.	Rate of land per acre.	Total amount of value of land exclusive of lots	Amount of tax at one and a half per cent.
D.	1	20l.	1000	10s.	500	7l. 16s. 0d.
B.	"	"	500	12	300	4 10 0
F.	3	60	"	"	"	0 18 0
G.	"	"	"	"	"	"
Sum Total	4	80l	1500	"	800	13l. 4 0

Taxable property book,
form of.

Form of return of taxable property to be made by the commissioners.

List of taxable property within the district of A. B. commissioner in the county of C—, for the year 178 .

Date of receiving lists from individuals	Persons names, char geable with the tax.	Names of white male tithables above 21.	Number of white males above 16 and under 21.	Blacks above 16	Blacks under 16	Horses, mares, colts & mules	Cattle.	Carriage wheels	Ordinary licenees	Billiard tables.	No of stud horses.	Rates of covering prseason	Practising physicians, apothecaries & surgeons.
178 .	10 A. C.	A C	1	2	3	4	5	2	1	1	1	£.2100	
March 10	11 A. D.	AD&EF	"	1	2	1	3	"	1	"	"	0000.	
	12 A. E.	A E.	"	"	"	"	0	"	"	"	"	0000	
	10 B. F.	BF&IK	2	10	15	9	30	6	"	"	2	5000	
	12 C. G.	C G	"	15	10	10	25	"	1	"	"	0000	
	13 D. H.	D H	3	"	1	2	7	"	1	1	"	0000	
Total amount.			6	28	31	26	70	8	4	2	3	7100	

So much of all and every act of assembly as comes within the purview of this act shall be and the same is hereby repealed.

CHAP. VII.

An act to carry into execution the requisition of congress upon this state for a troop of cavalry.

I. WHEREAS the United States in congress assembled, have, by their act of the twentieth of October, one thousand seven hundred and eighty six, assigned to this state as its quota of troops to be immediately raised for the service of the United States, one troop of light dragoons, to consist of sixty troopers, with their proper officers: Troop of cavalry to be raised, pursuant to a resolution of congress.

II. *Be it therefore enacted by the General Assembly,* That the governor, with the advice of the council of state, may, and he is hereby empowered and directed, to appoint a captain, lieutenant, and cornet, to command the said troop; and the said officers when so appointed, shall proceed with all dispatch to recruit sixty men by voluntary enlistment, to serve in the armies of the United States for three years, unless sooner discharged, and each trooper when enlisted, shall receive a bounty of five dollars.

III. *And be it further enacted,* That the governor, with the advice of the council of state, may draw upon the treasurer for as much money as may be necessary fully to carry this act into execution; which the treasurer shall pay out of the money appropriated for the payment of this state's quota of the requisition of congress of September, one thousand seven hundred and eighty five.

CHAP. VIII.

An act for appointing deputies from this commonwealth to a convention proposed to be held in the city of Philadelphia in May next, for the purpose of revising the federal constitution.

Deputies appointed to convention, for revising the federal constitution.

1. WHEREAS the commissioners who assembled at Annapolis, on the fourteenth day of September last, for the purpose of devising and reporting the means of enabling congress to provide effectually for the commercial interests of the United States, have represented the necessity of extending the revision of the federal system to all its defects; and have recommended that deputies for that purpose be appointed by the several legislatures, to meet in convention in the city of Philadelphia, on the second day of May next; a provision which seems preferable to a discussion of the subject in congress, where it might be too much interrupted by the ordinary business before them, and where it would besides be deprived of the valuable counsels of sundry individuals, who are disqualified by the constitution or laws of particular states, or restrained by peculiar circumstances from a seat in that assembly: And whereas the general assembly of this commonwealth, taking into view the actual situation of the confederacy, as well as reflecting on the alarming representations made from time to time by the United States in congress, particularly in their act of the fifteenth day of February last, can no longer doubt that the crisis is arrived at which the good people of America are to decide the solemn question, whether they will by wise and magnanimous efforts reap the just fruits of that independence, which they have so gloriously acquired, and of that union which they have cemented with so much of their common blood; or whether by giving way to unmanly jealousies and prejudices, or to partial and transitory interests, they will renounce the auspicious blessings prepared for them by the revolution, and furnish to its enemies an

eventual triumph over those by whose virtue and valour it has been accomplished: And whereas the same noble and extended policy, and the same fraternal and affectionate sentiments, which originally determined the citizens of this commonwealth to unite with their brethren of the other states in establishing a federal government, cannot but be felt with equal force now, as motives to lay aside every inferior consideration, and to concur in such further concessions and provisions, as may be necessary to secure the great objects for which that government was instituted, and to render the United States as happy in peace, as they have been glorious in war:

II. *Be it therefore enacted by the General Assembly of the Commonwealth of Virginia*, That seven commissioners be appointed by joint ballot of both houses of assembly, who, or any three of them, are hereby authorized as deputies from this commonwealth, to meet such deputies as may be appointed and authorised by other states, to assemble in convention at Philadelphia, as above recommended, and to join with them in devising and discussing all such alterations and further provisions, as may be necessary to render the federal constitution adequate to the exigencies of the union; and in reporting such an act for that purpose, to the United States in congress, as, when agreed to by them, and duly confirmed by the several states, will effectually provide for the same.

III. *And be it further enacted*, That in case of the death of any of the said deputies, or of their declining their appointments, the executive are hereby authorised to supply such vacancies. And the governor is requested to transmit forwith a copy of this act to the United States in congress, and to the executives of each of the states in the union.

CHAP. IX.

An act to enable the citizens of this commonwealth to discharge certain taxes, by the payment of tobacco.

Preamble.

1. WHEREAS it is represented to the present general assembly, that it will be a great relief to the citizens of this commonwealth to enable them to discharge the taxes now due for the year one thousand seven hundred and eighty-six, under the act, intituled "An act to amend and reduce the several acts of assembly for ascertaining certain taxes and duties, and for establishing a permanent revenue, into one act," with notes for inspected tobacco; and that this ease to the people may be given without lessening the public revenue, by fixing an equitable price on the tobacco to be received, having due regard to the selling price of that commodity at each of the warehouses within this state:

Tobacco receivable in taxes; at what rates; how collected and accounted for.

II. *Be it therefore enacted by the General Assembly,* That it shall and may be lawful for any person chargeable with any part of the taxes aforesaid, to discharge the same in inspectors receipts or notes for good merchantable crop tobacco, not less than nine hundred and fifty pounds nett weight, and not inspected more than one year when offered in payment, at the rates hereafter mentioned: At Page's in Hanover town, Byrd's, Shockoe, Rocketts, Rocky Ridge, Manchester, and Warwick, on James river, at twenty-eight shillings per hundred: At Osborne's, on James river; at all the warehouses in and about Petersburg, on Appamattox; at all the warehouses on York river and Mattapony, from Newcastle to Poropotank, inclusive; at all the warehouses from Falmouth to Roy's, and Gibson's, on Rappahannock, inclusive; and at all the warehouses from the Falls of Potowmack to Aquia, inclusive, at twenty-six shillings per hundred: And at all the warehouses on the different rivers, creeks, or bays within this commonwealth, not herein enumerated, at twenty-four shillings per hundred; except the warehouses hereafter mentioned, at which tobacco shall be received at the following rates, to wit, Rivanna, at twenty-two shillings per hundred; Lynch's at twenty

shillings per hundred; Crow's ferry, and Cresap's, at eighteen shillings per hundred; or in transfer receipts or notes for tobacco at the rate of one hundred and ten pounds for one hundred pounds of crop tobacco, at any public inspection within this commonwealth.

III. *And be it farther enacted*, That all tobaccos which may be received under this act, at any of the warehouses within the district, commonly called and known by the name of the Kentucky district (which tobacco shall be rated at twenty shillings per hundred) shall be paid to the judges of the superior court of that district, to be by them applied in the first place, to the discharge of the expences of government incurred within that district, and the surplus, if any, to be by the said judges paid into the public treasury. And that the most effectual measures may be adopted for enforcing the collection of the taxes within the limits of the said district,

IV. *Be it enacted*, That when any collector shall have failed to account with the said court, within the time prescribed by law, for the payment of taxes into the public treasury, that then the said court shall be authorised to grant judgment, upon motion of the attorney general of the district, and issue execution against such collector and his securities, provided they shall have ten days previous notice thereof.

V. *And be it further enacted*, That the sheriffs and collectors of this commonwealth, except the sheriffs and collectors of the district of Kentucky, shall give a receipt to each person from whom they collect the taxes, specifying in what the said taxes were paid; and shall make monthly returns, on oath, to the courts of their respective counties, of their collection, inserting in distinct columns of whom received, the amounts of the several articles paid, viz: specie, facilities, warrants, crop and transfer tobacco, with the marks, numbers, weights and warehouses, and shall also at the same time of making such return, make oath that he hath not directly or indirectly, sold, bartered, or exchanged, any article to or with the person or persons from whom he has collected taxes, except what was necessarily given in change. And in case any sheriff or collector shall fail making such return, the said sheriff or collector so failing, shall forfeit for every failure, the sum of fifty pounds, to be recovered by mo-

Sheriffs to make monthly returns of collections of taxes, whether specie, facilities, or tobacco.

tion, on ten days previous notice being given, which the attorney for the commonwealth in the county where the failure shall be, is hereby required to make and prosecute, and the money so recovered shall be collected and transmitted by the coroner of the county, to the treasury, to be applied to public purposes; and any sheriff being convicted of making a false return to the county court, shall be liable to the same penalty, and shall moreover be forever thereafter disqualified from holding the office of sheriff or collector in this commonwealth.

Clerks to set up lists of taxes collected, and give attested copies to sheriffs; without which, no payment to be made into treasury.

VI. *And be it further enacted*, That the clerks of the several courts are hereby enjoined to fix up fair copies of the sheriffs or collectors monthly returns, in some conspicuous part of their respective court-houses, for public inspection, on the next court day after such returns are made; they shall also file a copy thereof, and deliver another attested fair copy to the sheriff or collector, without which being first produced to the auditor of public accounts, no sheriff or collector, or any person for him or them, shall be permitted to make any payment on account of his collection into the treasury. Any clerk neglecting to perform any of the duties hereby required of him, shall forfeit and pay the sum of twenty-five pounds for every such neglect; to be recovered and applied in the same manner as the forfeitures herein inflicted on delinquent sheriffs and collectors.

CHAP. X.

An act to explain, amend, and reduce ^{See Laws for} into one act, the several acts for the ^{Oct. 1783. vol.} admission of emigrants to the rights ^{x. 17 Hen. 8. 321} of citizenship, and prohibiting the migration of certain persons to this commonwealth.

I. WHEREAS it is the policy of all infant states ^{Preamble.} to encourage population, among other means, by an easy mode for the admission of foreigners to the rights of citizenship; yet wisdom and safety suggest the propriety of guarding against the introduction of secret enemies, and of keeping the offices of government in the hands of citizens, intimately acquainted with the spirit of the constitution; and the genius of the people, as well as permanently attached to the common interest:

II. Be it therefore enacted by the General Assembly, ^{Who deem-} That all free persons, born within the territory of this ^{ed citizens.} commonwealth, all persons, not being natives, who have obtained a right to citizenship under the act, intituled "An act declaring who shall be deemed citizens ^{x. 129} of this commonwealth;" and also all children where-soever born, whose fathers or mothers are, or were, citizens at the time of the birth of such children, shall be deemed citizens of this commonwealth, until they relinquish that character, in manner herein after-men-tioned; and that all persons, other than alien enemies, ^{Aliens, how} who shall migrate into this state, and shall before some ^{naturalized.} court of record, give satisfactory proof by oath (or being quakers or menonists, by affirmation) that they in-tend to reside therein, and also take the legal oath or affirmation, for giving assurance of fidelity to the com-monwealth (which oaths or affirmations, the clerk of the court shall enter on record, and give a certificate ^{Registry of.} thereof to the person taking the same, and shall on or before the first day of October annually, transmit to the executive a list of the persons who shall have taken the said oaths or affirmations, reciting their nation and occupation, (if any) to be by them entered in a book

When eligible to office.

to be kept for that purpose, for which he shall receive the fee of one dollar;) shall be entitled to all the rights, privileges, and advantages of citizens, except, that they shall not be capable of election or appointment to any office, legislative, executive, or judiciary, until an actual residence in the state of five years from the time of taking such oaths, or affirmations, aforesaid, nor until they shall have evinced a permanent attachment to the state, by having intermarried with a citizen of this commonwealth, or a citizen of any other of the United States, or purchased lands to the value of one hundred pounds therein.

Who ineligible.

III. *Provided always and be it further enacted*, That no person whatsoever, having or holding any place or pension from any foreign state or potentate, shall be eligible to any office, legislative, executive, or judiciary, within this commonwealth.

Merchants becoming citizens, when entitled to privileges.

IV. *Provided also*, That no merchant stranger, who hath or shall migrate to this commonwealth, and become a citizen thereof, shall be entitled to any privilege or bounty which shall hereafter be granted to merchants citizens, until he shall have evinced a permanent attachment to this state, by intermarrying with a citizen of this commonwealth, or a citizen of any other of the United States, or purchased landed property to the value of five hundred pounds therein. And for the encouragement of useful artizans, mechanics, and handycraft tradesmen, to migrate into this commonwealth,

Artizans and mechanics, privileges of.

V. *Be it further enacted*, That all and every such person or persons last mentioned, who shall hereafter migrate to this commonwealth, shall be wholly exempted from the payment of any tax or duty on his or their tools or implements of trade, which he or they shall bring into this commonwealth at the time of his or their migration thereto, and shall moreover be exempted from all taxes whatsoever, except the land-tax, for the space of five years next thereafter, if he or they shall so long continue the actual exercise of his or their trade or occupation therein. And in order to preserve to the citizens of this commonwealth that natural right which all men have of relinquishing the society in which birth or accident may have thrown them, and of seeking subsistence and happiness elsewhere, and to declare explicitly what shall be deemed evidence of an intention in any citizen to exercise that right.

VI. *Be it further enacted*, That whensoever any citizen of this commonwealth shall, by deed in writing, under his hand and seal, executed in the presence of and subscribed by three witnesses, and by them, or two of them, proved in the general court or the court of the county wherein he resides, or by open verbal declaration made in either of the said courts, to be by them entered of record, declare that he relinquishes the character of a citizen, and shall depart out of this commonwealth, such person shall, from the time of his departure, be considered as having exercised his right of expatriation, and shall thenceforth be deemed no citizen.

Expatriation,
how exercised.

VII. *And be it further enacted*, That the act of assembly, passed in the year one thousand seven hundred and seventy nine, entitled, "An act declaring who shall be deemed citizens of this commonwealth," shall be, and the same is hereby repealed. And whereas it is just and necessary to prevent the admission into this state of those persons who, being either citizens or natives of some of the United States, have withdrawn themselves from their country, and actually been in arms, aiding and abetting the common enemy in their endeavours to subvert the rights and liberties of America:

Act of 1779
repealed.

VIII. *Be it therefore enacted*, That all persons who, having accepted a military commission from the United States, or any of them, or who having taken the oath of fidelity to any of the United States, or who having been natives of, or residents in any of the United States on the nineteenth day of April, in the year one thousand seven hundred and seventy five, or at any time since, have at any time during the late war voluntarily joined themselves to the fleets or armies of the king of Great Britain, or have voluntarily borne arms against the United States, or any of them, in any garrison, post, or fortification, or other place whatsoever within their territories, or on their coasts, or have been owner, or part owner, of any privateer or other armed vessel cruising against the said United States, or any of them and all and every person and persons who at any time acted as a member of the board commonly called the board of refugee commissioners at New York, or under the authority, or by the direction of the said board, shall be, and they are hereby prohibited from migra-

Who prohibited from migrating to, or becoming citizens of this commonwealth.

ling to, or becoming citizens of this commonwealth; and all such persons shall be equally subject to the pains, penalties, and disabilities of this act, although they have been heretofore, or shall be hereafter admitted to take the oaths of fidelity to this commonwealth in any court of record within the same, as if they had never taken the same.

Proceedings
against such
prohibited
persons.

IX. *And be it further enacted*, That all and every person and persons prohibited by this act from migrating to this commonwealth, who shall be found within the same, shall and may be prosecuted in the general court of this commonwealth, as for a misdemeanor; and if, upon trial, such person or persons be found guilty, of a breach of this act, such person or persons shall be imprisoned for a term not exceeding six months, in the public jail of this commonwealth, without bail or mainprise, and may be fined at the discretion of the said court, in any sum not exceeding one hundred pounds, and shall moreover stand committed until such fine be paid. And if the person or persons so convicted, shall be found at large in this commonwealth, after the expiration of one year from the time of his or their conviction, or of one month from the time of his or their enlargement from jail, such person or persons shall be committed to the public jail, and upon proof being made of the identity of such person or persons, he or they shall be thereafter imprisoned in the public jail for the space of five years, without bail or mainprise, and shall moreover forfeit all his goods and chattels, lands and tenements, for the use of the commonwealth. And if any person, prohibited by this act from migrating to this commonwealth, shall institute any suit or action whatsoever in any of the courts of this commonwealth, against any citizen of this commonwealth, or other person by law entitled to become a citizen thereof, the defendant or defendants may plead this act in bar of such action or suit; and if upon the trial of the cause it shall appear that the plaintiff is by this act prohibited from migrating to this commonwealth, and that the cause of action arose within the same after the commencement of this act, the jury shall find for the defendant or defendants, and thereupon judgment shall be given against the plaintiff with treble costs of suit. And the clerk of the court in which such cause shall be tried, shall, within one month thereafter, transmit a co-

Incapacity to
sue.

py of the record, together with the names of the witnesses sworn on the part of the defendant or defendants, to the attorney general of this commonwealth, who shall, at the next succeeding session of the general court, file an information, or prefer an indictment to the grand jury, against the person or persons against whom such verdict and judgment shall have been given.

X. *And be it further enacted*, That all persons residing in this or any other of the United States on the said nineteenth day of April, and not included in the above description, who are at present prohibited by law from migrating to this state, shall be, and they are hereby permitted to migrate into and enjoy all the rights of citizenship, except that they shall not be capable of voting for members to either house of assembly, or of holding or exercising any office of trust or profit civil or military. *Provided*, That nothing herein contained shall be construed so as to contravene the treaty of peace with Great Britain lately concluded. All other persons permitted.

XI. *And be it further enacted*, That full and ample protection shall be given to all persons who shall come into this commonwealth upon lawful business, except those who are prohibited by this act from migrating into this state. *Provided*, That nothing herein contained shall be construed to divest any person of the rights of citizenship, who hath legally obtained the same under two acts of assembly, the one, intituled, “An act for the admission of emigrants, and declaring their rights to citizenship;” the other, intituled “An act prohibiting the migration of certain persons to this commonwealth, and for other purposes;” but that any person, who hath by deceit or collusion, or in any manner contrary to the true intent and meaning of the said recited acts obtained the same, shall be prosecuted under this act. Protection to whom extended.

XII. *And be it further enacted*, That the act, intituled, “An act to prohibit intercourse with, and the admission of British subjects into this state,” and also, so much of every other act or acts of assembly, as comes within the meaning of this act, shall be, and the same is hereby repealed. Act prohibiting intercourse with British subjects repealed.

CHAP. XI.

See ante pa.
99.

An act to amend an act, intituled, An act to repeal an act, intituled An act concerning entries and surveys on the Western waters, and for other purposes.

Act declaring
forfeiture of
entries for
land on fail-
ure to appoint
agents, re-
pealed.

I. WHEREAS the act, intituled "An act to repeal an act, intituled An act concerning entries and surveys on the Western waters, and for other purposes," requiring that the owners of entries shall appoint agents or attorneys in each county where such entries are made, and notify such appointments to the principal surveyor of the county, by the first day of February, one thousand seven hundred and eighty seven, and declaring that on failure thereof, such entries shall be void, whereby many of the good people on the western waters, through ignorance of the said recited act, are likely to be injured by a forfeiture of their entries: For remedy whereof,

II. *Be it enacted*, That no entry shall be forfeited under the said recited act, for and during the term of two years, after the passing this act.

CHAP. XII.

An act to repeal the act for incorporating the Protestant Episcopal Church and for other purposes.

Act incorpor-
ating Prote-
stant Episco-
pal Church
repealed.

I. *BE it enacted by the General Assembly*, That the act, intituled "An act for incorporating the Protestant Episcopal Church," shall be, and the same is hereby repealed: Saving to all religious societies the

property to them respectively belonging, who are hereby authorised to appoint from time to time, according to the rules of their sect, trustees, who shall be capable of managing and applying such property to the religious uses of such societies. And to guard against all doubts and misconstructions,

Each religious society secured in its property and authorized to regulate its own discipline.

II. *Be it further enacted, and declared, That so much of all laws now in force, as prevents any religious society from regulating its own discipline, shall be, and is hereby repealed.*

CHAP. XIII.

An act to suspend an act, intituled An act for the establishment of courts of assize.

I. *BE it enacted by the General Assembly, That the act, intituled "An act for the establishment of courts of assize," be, and the same is hereby suspended until the first day of January, in the year of our Lord, one thousand seven hundred and eighty eight: And that the general court shall proceed in all things in the same manner, as if the said act had never passed.*

Acts establishing courts of assize further suspended.

CHAP. XIV.

An act for affording protection from arrests to witnesses summoned to attend to orders for reference and surveys.

I. *WHEREAS it is reasonable that persons summoned to attend as witnesses on references, or surveys, to be made under an order of either the high court of chancery, general, county, or corporation courts of*

Witness attending references and orders of survey, privilege.

ged from ar-
rests.

this commonwealth, should be free from arrests during such their attendance:

II. *Be it therefore enacted*, That all and every such witness or witnesses, as well in coming to, or returning from, as during their attendance at such reference or survey, shall be privileged and free from arrests in like manner as witnesses attending on the said courts.

How such
witnesses
summoned.

III. *And be it enacted*, That on application by the party, surveyor, or referees, interested in or acting under the order of any such court, the clerk of the court from whence the order for a survey or reference shall issue, may and shall grant one or more subpoenas, as the case may require, commanding the attendance of the witness or witnesses, at such time and place as shall by the person requiring the said subpoena or subpoenas to issue, be directed. And if any person, duly served with such subpoena, shall fail to attend at the time and place therein mentioned, he or she so failing, shall be liable to the same penalty, and to the like action for damages, as in case of non-attendance upon a trial in court after having been regularly summoned thereto. And whereas, an abuse of those privileges which are granted for the furtherance of justice, ought to be carefully guarded against;

None privile-
ged unless
actually a wit-
ness and duly
summoned

IV. *Be it further enacted*, That no person whatsoever attending any of the courts in this commonwealth, or upon any reference or survey, by order of any such court, in virtue of any subpoena, shall be privileged from an arrest by original or other process, unless such person shall be actually a witness in the matter in such subpoenas expressed, nor unless the said subpoenas shall have been first duly executed by a sworn officer, or by some other indifferent person who shall have made oath to the due execution thereof.

CHAP. XV.

An act to empower securities to recover damages in a summary way.

Preamble.

I. WHEREAS many persons have been reduced from affluence to poverty, by securityships, and it fre-

quently happens that the security or securities upon bonds or other obligations, their heirs, executors, or administrators, have been compelled to pay the whole, or the greater part of the debt due upon such bonds or obligations, and in many cases have not been able, by the insolvency of the principal or principals, or a tardy administration of justice, to recover from them or their representatives, the whole or any part of the amount of such debts, whereby the said securities have been involved in great inconveniences, and often times in manifest ruin: For remedy whereof,

II. *Be it enacted*, That in all cases where judgment hath been, or shall hereafter be entered up in any of the courts of record within this commonwealth, against any person or persons, as security or securities, their heirs, executors, administrators, or assigns, upon any note, bill, bond, or obligation, and the amount of such judgment, or any part thereof, hath been paid or discharged by such security or securities, his, her, or their heirs, executors, administrators, or assigns, it shall and may be lawful for such security or securities, his, her, or their executors, administrators, or assigns, to obtain judgment by motion against such principal obligor, or obligors, his, her, or their heirs, executors, administrators, or assigns, for the full amount of what shall have been paid by the said security or securities, his, her, or their executors, administrators, or assigns, in any court where such judgment may have been entered up against such security, or securities, his, her, or their heirs, executors, administrators, or assigns.

Securities' summary remedy against their principals.

III. *And be it further enacted*, That where the principal obligor, or obligors, have, or hereafter shall become insolvent, and there have been or shall be two or more securities jointly bound with the said principal obligor, or obligors, in any bond, bill, note, or other obligation, for the payment of money, or other thing, and judgment hath been, or hereafter shall be obtained against one or more of such securities, it shall and may be lawful for the court before whom such judgment was or shall be obtained, upon motion of the party or parties, against whom judgment hath been entered up as securities aforesaid, to grant judgment, and award execution against all and every of the obligors and their legal representatives, for their and each of their respective shares and proportions of the said debt.

Contribution among securities, how enforced.

Securities
not to confess
judgment.

IV. *And be it further enacted*, That no security or securities, his, her, or their executors, administrators, or assigns, shall be suffered to confess judgment, so as to distress his, her, or their principal, or principals, if such principal, or principals, will enter him, her, or themselves a defendant or defendants to the suit, and tender to the said security or securities, his, her, or their executors, administrators, or assigns, other good and sufficient collateral security, to be approved of by the court before whom the suit shall be depending. *Provided always*, That no judgment shall be obtained by motion as aforesaid, unless the party or parties, against whom the same is prayed, shall have ten days previous notice thereof.

CHAP. XVI.

In act to compel the clerks of inferior courts to perform certain duties, and for other purposes.

Preamble.

I. WHEREAS by an act of the general assembly of this commonwealth, intituled "An act for establishing a general court, it is, among other things, enacted that when any person, other than a slave, charged with any criminal offence, shall be examined before a court for that purpose to be convened and held, if it shall be the opinion of the court, before whom such persons shall be examined, that he or she ought to be tried in the general court, such examining court shall cause the depositions of the witnesses to be taken, and bind such as they shall think proper by recognizances, to appear and give evidence against such person at his or her trial, which duty hath heretofore been in great measure neglected, whereby great inconveniences and delays have been incurred in the administration of justice: For remedy whereof,

Duty of
clerks, as to
depositions,

II. *Be it enacted*, That when any person, other than a slave, charged with any criminal offence, shall be

examined before any court for that purpose convened and held pursuant to the directions of the said recited act, if the court before whom such person shall be examined shall be of opinion that the prisoner ought to be tried in the general court, they shall cause the clerk of the court to take the depositions of all such witnesses as shall be by the said court bound in a recognizance to appear and give evidence against such prisoner at his trial; copies of which depositions so taken, the said clerk shall within ten days thereafter transmit to the clerk of the general court, together with copies of the recognizances of such witnesses, and also a copy of the recognizance of such prisoner, if he or she shall be by the justices of the said court admitted to bail, and in case of failure in either case, such clerk shall forfeit the sum of twenty five pounds, for the use of the commonwealth, to be recovered with costs, on motion in the general court by the solicitor or attorney general on behalf of the commonwealth; provided such clerk have ten days previous notice thereof. And the clerk of the general court shall immediately on the receipt of such copies of depositions, transmit other copies thereof to the attorney general, for the use of his office. And whereas the omission of the name of the parish, town, ville or hamlet, in which any crime or offence is supposed to be committed, hath been conceived to be fatal in indictments for such crimes or offences, and there being in several counties within this commonwealth neither parish, town, ville or hamlet:

when criminal is sent for further trial from examining court.

III. *Be it therefore enacted*, That no indictment for high treason, petty treason, misprision of treason, murder, or other felony or offence whatsoever, shall be quashed for the omission of the name of any parish, town, ville or hamlet, within any county of this commonwealth; nor shall such omission, after conviction on such indictment, be any cause to stay or arrest judgment; nor shall any judgment on such indictment be liable to be reversed on a writ of error, by reason of such omission; nor shall any judgment in any court within this commonwealth be reversed by writ of error or otherwise, because of any such omission in any declaration, count or plea whatsoever.

Omission of parish, town, ville, or hamlet, not fatal in indictments.

CHAP. XVII.

An act to amend the act, intituled An act to provide for the poor of the several counties within this commonwealth.

Act providing for the poor, amended.

I. WHEREAS the act passed at the last session of assembly, to provide for the poor within this commonwealth, hath been found inadequate to their relief:

Election of overseers of the poor.

II. *Be it enacted by the General Assembly, That* where no election of overseers of the poor hath been made according to the direction of the said act, it shall and may be lawful for the court of such county, at any future session, to divide the same, and do such other acts as were directed by the said act for the appointment of overseers. That where there is or shall be a vacancy in any appointment of overseers already made, or hereafter to be made, by reason of the person chosen refusing to serve or otherwise, the court of the county, wherein the same shall be, is hereby required to have the same filled up in the manner prescribed by the said act for the original appointment. That the time of service, as fixed by the aforesaid act, shall in all cases be computed from the first day of April last, and the general elections shall in all cases be computed from the first day of April, in the year in which they shall be made, notwithstanding the time of service shall thereby be made shorter than the said act directs; that all appointments made for filling up vacancies, and all elections made between the general triennial elections, shall be for the time which shall be unexpired of the three years, and no longer. The county court may at any session within six months before the first day of April, which will be in the year in which the general election of overseers is to be held, enter into the measures directed by the said act for regulating the said elections, and may fix some convenient day for holding the same. And the person, who has been or shall hereafter be appointed to superintend any election, shall return the names of the person or persons chosen, to the clerk of the county, who shall

thereupon issue a writ to the sheriff of the county, commanding him that ten days before the ensuing court day, he shall inform the said person or persons that he or they hath or have been elected overseer or overseers of the poor, and require him or them to appear at the next court day, and make oath that he or they will truly and faithfully administer the said office. And if the said person or persons, or either of them, being summoned, shall not appear, or shall appear and refuse to qualify as aforesaid, the same rules shall be observed by the court in supplying such vacancies, as well as vacancies which may happen by resignation, as is before directed. And the overseers of each district, or such of them as shall have qualified, shall between the months of April and of August, in each year, levy and assess upon the tithables within their county (the list of which shall be furnished them by the clerk of the county) competent sums of money, or tobacco in lieu thereof, at a stated price, to be paid at the option of the party chargeable therewith, for the necessary relief and support of such poor, lame, blind, and other inhabitants of the said district as are not able to support themselves, and for such contingent expences as may probably arise before the succeeding levy.—
 Where no levy has been made for the present year, it shall and may be lawful for the overseers of each district to provide in the succeeding levy for the payment of all such reasonable sums as shall be expended on the poor of the districts after the first day of January next. And the said overseers shall return to the court of the county a list of the persons to and for whom such monies are to be paid, the purposes for which, and the particular sums, with the amount of the sum to be levied for contingent expences, which list shall be kept for and be open to all persons interested therein; and the clerk of the county shall unite the several levies returned from the different districts in the county, and make out a list of the persons and property chargeable therewith, for the use of the public collector, who shall be bound by the terms of the said act, and have the powers thereby given.

Vacancies
supplied.

Levy, when
paid.

Duty of over-
seers to pro-
vide for poor.

III. *Be it further enacted*, That the overseers of each district shall provide for the poor, lame, blind, and other inhabitants of the district not able to maintain themselves, and may also provide houses, nurses

and doctors, in such cases as they, or a majority of them, shall think necessary; the expenses of which, if the contingent fund shall be insufficient, shall be provided for in the succeeding levy. If any poor person shall suppose that he or she is entitled to the benefit of the laws for the relief of the poor, and the overseers of the district, in which he or she resides, shall refuse to give such person the benefit thereof, upon application of such person, the county court may, if they think proper, direct the overseers to receive him or her upon their lists of poor, and until the next levy provide for him or her out of the contingent fund.— That the overseers of each district shall take effectual measures to prevent the poor resident within the same from strolling into another county; and each of the overseers within a county shall have the same power of sending away poor persons not resident therein, and the same redress against the overseers of the district, in which they have residence, as the churchwardens of any parish formerly had in similar cases. Where any dispute shall arise respecting the residence of any poor persons, the court of any county adjacent to either of the counties interested therein, is hereby authorised and required to take cognizance thereof, and they are hereby vested with all powers, which would belong to the general court if this provision had not been made; and all power of determining questions of residence, except on appeal from the court of such county, is hereby taken from the general court.

Settlement.

Orphans, how bound out, and what covenants indentures to contain.

IV. *Be it further enacted,* That the overseers of the poor of each district, shall monthly make returns to the court of their county, of the poor orphans in their district, and of such children within the same, whose parents they shall judge incapable of supporting and bringing them up in honest courses. And the said court is hereby authorised to direct the said overseers, or either of them, to bind out such poor orphans and children apprentices to such person or persons as the court shall approve of, until the age of twenty one years, if a boy, or eighteen years, if a girl. The indentures of such apprentices shall contain proper covenants to oblige the persons to whom they shall be bound, to teach them some art, trade or business, to be particularised in the indentures, as also reading and writing, and, if a boy, common arithmetic, including

the rule of three, and to pay to him or her, as the case may be, three pounds and ten shillings at the expiration of the time of service.

V. *Be it further enacted*, That where no settlement has been made by the late churwardens of their parochial accounts, conformably to the said act, any overseer within the county, shall have power to call a meeting of the overseers of the county, to be held at the court-house on a certain day, and to call on the said churchwardens to attend the same, for the purpose of settling their said accounts. The time of meeting shall be at least one month after notice to the churchwardens; and in case there shall be a majority of the overseers so assembled, and the churchwardens summoned as aforesaid, shall delay or refuse to come to such settlement, the county court, on the motion of any overseer, shall render judgment against such churchwardens for the balance which shall appear by the vestry-books to be due, and for which sufficient vouchers cannot be produced, with costs of suit. And if, after settlement made, they shall refuse to pay the balance, which shall appear to be due on such settlement; the county court, on motion of any overseer, shall render judgment for the same with costs; provided, that in the cases before mentioned, the churchwardens shall have had ten days notice that such motion would be made. Any money so recovered, may be applied to the use of any district; and the overseers, who shall use the same, shall render account thereof, as of money received for the use of their district. The overseers of each district, shall in the month of June in each year, settle their accounts with the county court, and the money, which shall remain in their hands, or in the hands of the collector of the public taxes, unappropriated, shall be deducted from the rate to be made for the ensuing year.

Overseers of
poor to call
on church-
wardens for
settlement.

CHAP. XVIII.

An act to amend the act, intituled An act to amend the act concerning pensioners.

Auditors to transmit list of pensioners annually to clerks of county courts

I. *BE it enacted by the General Assembly, That* from and after the passing of this act, the auditor of public accounts shall annually before the last day of January, transmit to the clerks of the several counties within this commonwealth, a general list of pensioners; and every pensioner shall annually in February or April, apply in person, or if an orphan, by his or her guardian, to the court of the county wherein he or she resides, and exhibit the certificate upon which his or her claim is founded, and make oath that he or she is the person to whom it was given; or where such person shall be unable to attend, he or she shall make the like oath before a magistrate, and the court, upon comparing the certificate with the list transmitted from the auditor, and finding it to be right, shall order it to be recorded, and direct the sheriff to pay the pension; a copy of which order shall be given to the pensioner: Whereupon the sheriff shall make payment thereof, and take a receipt on the said order, and be entitled to credit for the same in the settlement of his accounts with the auditor.

How pensioners to be paid.

II. So much of the above recited act, as comes within the purview of this act, shall be, and the same is hereby repealed.

 CHAP. XIX.

An act to enable the solicitor more effectually to collect the arrearages of the taxes, and proceed against public delinquents.

I. **WHEREAS** the laws enabling the solicitor to proceed against public delinquents, have been hitherto

ineffectual, the consequence of which has been a vast accumulation of arrearages of taxes in the hands of the several sheriffs and collectors:

II. *Be it therefore enacted by the General Assembly,* That it shall and may be lawful for the general court, on the tenth day of their sessions in October and April, and on the first day of their sessions in June and December, to give judgment with costs, at the motion of the solicitor, on ten days previous notice, against any person or persons indebted to the commonwealth, by bond, note, or any other written speciality, whether the same be taken in the name of the governor, treasurer, or any other person acting in any public character, for or on behalf of the commonwealth; and also to give judgment in like manner for all bills of exchange, notes, or other specialities, and for the penalty of all bonds entered into by any person or persons, conditioned for the rendering of accounts or for other duties.

Summary remedy for arrears of taxes on motion of solicitor general.

III. *And be it enacted,* That where any person or persons have been, are, or may hereafter be indebted to the commonwealth, either in specie, or in other articles collected or otherwise received for and on behalf of the commonwealth, and such person or persons on a settlement with the auditor, have obtained a quietus, and where judgment hath been or may be obtained in favour of the commonwealth, and the amount thereof adjusted and discharged, either before or after the issuing of the execution, whereby a quietus may have been or shall hereafter be obtained by the party or parties, and it shall afterwards appear that an error or mistake had been committed to the prejudice of the commonwealth in the settlement of such account, judgment, or execution; in all or any of these cases, it shall and may be lawful for the general court to give judgment, on motion, with ten days previous notice, for the amount of such error or mistake, without interest or damages thereupon, the same being proved to the satisfaction of the court.

Mistakes to prejudice of commonwealth, on settlement of accounts, corrected on motion.

IV. *And be it further enacted,* That when it shall appear after settlement, that by error or mistake, any person may or shall have paid more to the commonwealth than was really due, such person shall have the same remedy, by motion, with notice against the solicitor, as is by this act given to the commonwealth.

Same remedy against the commonwealth.

CHAP. XX.

An act for reviving and continuing the act for adjusting claims for property impressed or taken for public service.

Act for adjusting claims for property impressed for public service revived and continued.

I. WHEREAS the act of assembly, passed in the year one thousand seven hundred and eighty one, intitled "An act for adjusting claims for property impressed or taken for public service," which has been continued by several subsequent acts, expired on the first day of September last, and it is expedient that the same should be revived and continued:

II. *Be it therefore enacted*, That the said recited act shall be revived, and continue and be in force until the first day of September next.

III. *And be it further enacted*, That the auditors shall issue certificates on claims audited by the county courts since the first day of September last, in like manner as if the before recited act had not expired.

CHAP. XXI.

An act for giving further time to officers, soldiers, sailors, and marines, to settle their arrears of pay and depreciation, with the auditor of public accounts.

Further time allowed to settle claims of officers, soldiers and marines, for pay and depreciation.

I. *BE it enacted by the General Assembly*, That it shall and may be lawful for the auditor of public accounts, and he is hereby required, to liquidate all just claims of officers, soldiers, sailors, and marines, and of those of the staff department, who are entitled by law to arrears of pay and depreciation, that shall be pre-

sented to him on or before the first day of December, one thousand seven hundred and eighty-seven, and to grant certificates as usual for what shall be due thereon; the said claims having been first allowed by the commissioner or commissioners appointed to examine the same. *Provided always*, That application for such certificates be made by the claimant in person, or by his written order, assignment, or his legal representative.

CHAP. XXII.

An act concerning the claims to full pay of certain officers, and to half pay of the widows and orphans of officers that died in the service.

I. *BE it enacted by the General Assembly*, That the auditor of public accounts is hereby authorised and required to issue warrants to widows and orphans, entitled thereto under the act of assembly passed in October session, one thousand seven hundred and eighty, for making good the future pay of the army, and for other purposes; any law to the contrary notwithstanding. And whereas by the construction of an act, intitled "An act to amend the act concerning pensioners," a few meritorious disabled officers, in indigent circumstances, who, on full proof of their merits and necessities, had been by a preceding assembly directed to receive full pay for life, are deprived thereof; Full pay to certain officers and half pay to widows and orphans directed.

II. *Be it therefore enacted*, That so much of the said recited act as is construed to deprive those officers, who were before entitled to full pay, from receiving the same, shall be and is hereby repealed.

CHAP. XXIII.

*An act to amend the act, intituled
An act to authorise the auditors to
grant new warrants and certificates
in certain cases.*

Rule in issuing warrants for interest on certificates.

I. *Be it enacted by the General Assembly, That the auditor of accounts shall not hereafter issue warrants for interest on any certificates, on which duplicates have been issued agreeable to law; but the auditor, when the original certificates are presented for warrants, shall retain the same in his office.*

Auditor no longer to re-new lost certificates.

II. *And be it further enacted, That hereafter no warrants or certificates shall be granted by the auditor in lieu of such as may have been lost or destroyed, under the act to authorize the auditors to grant new warrants and certificates in certain cases, which was passed in the year one thousand seven hundred and eighty three.*

CHAP. XXIV.

An act for ascertaining and liquidating the claims of the sufferers by the destruction of tobacco at Byrd's ware-houses, and to suspend the rebuilding of the said ware-houses.

Commissioners to liquidate claims for tobacco destroyed by burning Byrd's warehouses.

I. *Be it enacted by the General Assembly, That Nathaniel Wilkinson, Foster Webb, junior, John Harvie, Daniel Lawrence Hylton, John Marshall, and James Buchanan, gentlemen, be, and they are hereby appointed commissioners, to ascertain and liquidate the claims of the proprietors of tobacco lately destroyed by the burning of Byrd's warehouses, in the city of Richmond, and the said commissioners, or any three*

of them, are hereby empowered to meet at such time and place as they shall see fit, (public notice thereof having been given previously for four weeks in the Virginia Gazette) to ascertain and settle the accounts of all claimants under this act; and they shall be further authorised to examine any person or persons they shall think necessary for their information in all things relative to the said claims, and to administer an oath or affirmation, as the case may require, to any person or persons for the better discovering the true quantity of the tobacco so destroyed.

II. *And be it further enacted*, That in stating the said accounts, the commissioners, or any three of them, shall and they are hereby directed and required, to express the value of the tobacco at the time it was destroyed, specifying the quantity of crop and transfer tobacco separately; which accounts the said commissioners, or any three of them, shall return under their hands and seals to the next session of the general assembly.

III. *And be it further enacted*, That for the ease and convenience of the commissioners in this act mentioned, they are hereby empowered to appoint a clerk, who shall keep a record of their proceedings, to be laid before the next session of the general assembly.

IV. *And be it further enacted*, That the re-building of Byrd's warehouses shall be suspended until the end of the next session of general assembly. And whereas it is represented to the general assembly, that the loss of Byrd's warehouses will augment the duty of the inspectors at Shockoe and Rockett's, so much as to render them inadequate thereto: For remedy whereof,

V. *Be it enacted*, That one of the inspectors at Byrd's warehouses shall attend at Shockoe, and the other at Rockett's Inspections, for the present year, as assistant inspectors to those already commissioned at the said warehouses respectively, for which they shall be allowed the same salaries heretofore given them by law.

CHAP. XXV.

An act for appointing commissioners to receive subscriptions for the purpose of opening a road from the falls of the Great Kanawa to Lexington, in Fayette county.

Commissioners to receive subscriptions for opening a road from the falls of the Great Kanawa to Lexington in Kentucky.

I. WHEREAS the opening a more direct and ready communication with the Kentucky district, will be greatly facilitated, and the distance to that country rendered shorter and safer, by establishing a public road from the falls of the Great Kanawa to the town of Lexington, in the county of Fayette, and it is represented that such a road may be cut and maintained by private subscription:

II. *Be it therefore enacted by the General Assembly,* That John Marshall, jun. Henry Banks, Alexander St. Clair, Robert Gamble, John Stuart, William Rennie, William Morris, James Armstrong, Joseph Crocket, James Wilkison, Edmund Lyne, James Garrard, Isaac Cox, Andrew Hynes, John Jonett, Gabriel Madison, John Campbell, Richard Terrel, George Adams, Green Clay, Benjamin Logan, Isaac Shelby, and George Clendinen, gentlemen, be appointed commissioners, who are severally authorised and empowered to open and receive subscriptions for that purpose. Each of the said commissioners, before he enters upon the duty assigned him, shall enter into bond with good security, payable to the governor and his successors, in a reasonable penalty, conditioned for the faithful execution of his office, to be recorded in the court of the county in which he may reside, and moreover shall take an oath before such court to the like effect; a certificate of which oath taken, and bond given, under the hand of the clerk, shall be shewn to every subscriber. It shall be lawful for the said commissioners, or a majority of them, to contract with such and so many proper persons to survey, mark, clear and open the said road, as to them shall seem fit; and for that purpose to apply the subscriptions taken, as far as the same will go, taking bond with good security from the undertaker for the performance of their trust. The said com-

missioners shall return an account of their proceedings and disbursement of the subscriptions pursuant to this act, to the supreme court of the Kentucky district, there to be recorded; and shall cause the said road to be finished and compleated on or before the first day of January one thousand seven hundred and eighty-nine. If any subscriber shall fail or refuse to pay up his subscription at the time specified, it shall be lawful for the said commissioners to recover judgment against any such delinquent subscriber for the sum of money or value of the specific thing subscribed, in any court of record, upon motion, and ten days previous notice, upon which judgment execution shall go, endorsed by the clerk "no security to be taken."

CHAP. XXVI.

An act imposing new Taxes.

I. *Be it enacted by the General Assembly, That* **New taxes** there shall be paid by the owners of riding car- **imposed.** riages, an additional tax, over and above the taxes now by law imposed, on all such carriages as they shall be in possession of on the ninth day of March next, and also on the ninth day of March in each succeeding year, after the following rates, to wit: For every coach or chariot, an additional tax of five dol- **On carriages.** lars a wheel; for all other riding carriages with four wheels, except those used for the purposes of agriculture, an additional tax of three dollars a wheel; for all other riding carriages with two wheels, an additional tax of one dollar a wheel. Every person failing to render and give in to the persons who now are or hereafter may be appointed by law to receive an account of the taxable property, a true and just account of the carriages he or she may be possessed of on the day above mentioned, shall for every such offence, forfeit and pay four times the amount of the tax that would have been due for the said carriage, if it had been given in agreeable to this act. *Provided, That* nothing herein contained shall be construed to subject

the maker of any such carriage to the payment of the said tax, during the time that any such carriage shall remain in his possession.

On clerks of
courts.

II. *And be it further enacted,* That the clerks of the court of appeals, court of chancery, general court, of the respective county courts, and each of the corporation courts, shall account for and pay annually into the treasury, one third of the amount of what they shall actually have received for their fees for services performed in the preceding year. And that the said amount may be justly ascertained, the said clerks shall, on or before the first day of September, in each year, make out a fair account of the amount of their fees for the preceding year, as also of the sums that they may have received for the same, likewise of the sums that they may have received for arrears of fees that may become due after the passing of this act; which account the clerks of the court of appeals, court of chancery, and general court, shall give in to the commissioners of the tax (directed to be appointed by an act, "To amend the act for ascertaining certain taxes and duties, and for establishing a permanent revenue,") for the county of Henrico, and the other clerks to the commissioners, appointed as aforesaid, for the counties where each of the said courts is held. And the said commissioners, or any one of them, having compared the said account with the fee book of the said clerks, shall certify the same to the county court; whereupon, the said clerk making oath that the said account contains a true list of all fees charged or received by him for services performed in the preceding year, as also of all sums received by him since his last settlement for fees due for services performed after the passing of this act, and which were not accounted for before, the said court shall order the said account to be certified, and the said clerk shall on or before the first day of October, in each year, deliver in the said account so certified to the auditor of public accounts, and pay at the same time into the treasury, the sum which by the said account shall appear to be due from him. Every clerk failing to render such account, or to pay into the treasury the sum which he shall thereby appear to be indebted to the state at the time aforesaid, shall for every such offence, forfeit and pay the sum of five hundred pounds, to be recovered by motion of the so-

licitor general, in the same manner that is used against delinquent sheriffs.

III. *And be it further enacted*, That every practising attorney, at any court within this commonwealth, before he shall be permitted to appear for the plaintiff or defendant in any matter depending in the said court, wherein a fee may be by law taxed in the bill of costs, shall pay down to the clerk of the said court, one tenth part of the amount of the said fee, which proportion of the legal fee shall be paid by every attorney appearing on either side. And that the said fees may be faithfully accounted for, On attorneys.

IV. *Be it enacted*, That the clerk of each court shall be answerable for the amount of the said tax, although he may not have received the same; and the said clerk shall, in the minutes of the proceedings of the said court, and also in his rule-book, in all such contests where attorneys fees might be charged, enter the names of all the attorneys who appeared on either side, and where no such entry shall be made by the said clerk, he shall be accountable for the amount of what ought to have been paid by two attorneys, unless it shall appear that no attorney did appear. And the clerk of each of the said courts, shall, on or before the fifteenth day of March and the fifteenth day of September, in each year, settle with the commissioners of the tax aforesaid, in manner before directed; which account, having by the said commissioners been compared with his memorandum-book, rule-book, and minute-book, and found to be right, shall be certified to the courts, where the clerk having made oath to the same, it shall be certified by order of the court, returned by the clerk to the auditor within thirty days thereafter, and accounted for to the treasurer, under the penalties above directed. How collected and accounted for.

V. *And be it further enacted*, That there shall be a tax of five pounds paid by every practising physician, apothecary, or surgeon, within this state; and that every person, coming under either of the above descriptions, shall enter himself as such in his list of property directed to be given in to the commissioners by the act aforesaid; and every such person failing so to do, shall forfeit and pay the sum of twenty pounds, to be recovered in the court of the county where he resides, on the motion of the said commissioners, or ei- On physicians.

ther of them; the party moved against having had ten days notice of such motion.

On houses &
lots in towns.

VI. *And be it further enacted*, That instead of the tax now paid upon houses and lots in towns. from and after the passing of this act, there shall be paid on every such lot and house, five pounds in the hundred upon the amount of the rent of each house and lot respectively; the amount of the said rent, where any such house or lot is leased, to be ascertained by the rent paid by the tenant, and where such house and lot is in the occupation of the proprietor, the yearly rent or value shall be ascertained by the commissioners appointed as aforesaid, or either of them, by a comparison of its value with other houses or lots actually rented. *Provided*, That the owner or proprietor of any such house or lot, if he thinks himself aggrieved by such valuation, may appeal to the county court, whose judgment as to the yearly rent or value shall be final. And the said commissioners, or either of them, to ascertain the rent paid on houses or lots actually leased, may call on the tenant or proprietor to declare upon oath, or solemn affirmation, what is the amount of the rent paid for the same; and every person so called upon, and refusing to declare, shall forfeit and pay the sum of one hundred pounds, to be recovered by motion, on ten days previous notice to be made by the commissioners, or either of them.

On retail mer-
chants.

VII. *And be it further enacted*, That every retail merchant within this state, shall annually take out a license for that purpose from the court of the county or corporation in which he resides; and if any such merchant shall after the first day of April next, retail any goods, wares or merchandise within this state, without having first taken out such license, or having renewed it at the end of each year, every such merchant so offending, shall forfeit and pay the sum of sixty pounds, to be recovered by the motion of the commissioners aforesaid, or either of them, on ten days previous notice. And the said retail merchants, shall each of them pay for the license aforesaid, at the time it is first granted, and on its renewal each year afterwards, the following rates: Every retail merchant, being a citizen of this state, or of any of the United States, or being a citizen of any nation, which hath entered or may hereafter enter into a commercial treaty with the United

States, shall pay the annual sum of five pounds; and every retail merchant, or factor, being a citizen of, or belonging to any nation not having entered into a commercial treaty with the United States, shall pay the annual sum of twenty pounds; to be received, accounted for, and paid by the respective clerks in the manner and under the penalties prescribed for the payment of the taxes imposed on attornies by this act. All penalties imposed by this act, shall go, one half to the use of the commonwealth, and the other half towards lessening the county levy, where the judgment shall be recovered. All acts contrary to this act, shall be, and are hereby repealed.

CHAP. XXVII.

An act to amend the act, intituled An act imposing new taxes.

I. WHEREAS it is judged expedient to explain and amend an act passed at the present session of the general assembly, intituled "An act imposing new taxes;"

Act imposing new taxes amended.

II. *Be it enacted by the General Assembly,* That no clerk shall be obliged to account for any fees received or due for services performed prior to the first day of January, one thousand seven hundred and eighty seven.

III. *And be it further enacted,* That no practising attorney shall be obliged to pay any proportion of the legal fee on any suit, which shall have been commenced in any court within this commonwealth, prior to the said first day of January, one thousand seven hundred and eighty-seven.

IV. *And be it further enacted,* That all clerks within this commonwealth, shall be allowed a commission of five per centum, on all monies paid by them into the treasury, by virtue of the said act.

CHAP. XXVIII.

An act to raise a supply of money for the United States in congress assembled.

Provision for
paying requi-
sition of con-
gress.

I. WHEREAS it has become indispensibly necessary, in the present emergency of affairs, to make immediate provision for the sum of ninety thousand dollars, in compliance with the requisition of congress, of the twenty first of October last;

Additional
duty on to-
bacco export
ed.

II. *Be it therefore enacted*, That from and after the tenth day of January, one thousand seven hundred and eighty-seven, an additional duty of six shillings per hogshhead on every hogshhead of tobacco passed at and shipped from any public warehouse within this commonwealth, shall be paid to the inspectors, at such warehouses respectively for the time being, at the time of delivering out the said tobacco for exportation, to be accounted for by the said inspectors, and paid into the public treasury at the following periods, to wit, the first day of March, the first day of October, and the thirty-first day of December; for which they shall be allowed two and a half *per centum*, on the amount of the sums paid by them into the treasury, for their trouble, to be credited in the settlement of their accounts with the treasurer.

III. *And be it further enacted*, That the several inspectors shall, in the court of their county, enter into bond in the penalty of one thousand pounds, with sufficient security, with condition for the true and faithful collection and accounting for the duties imposed by this act; which bond shall be by the clerk of the court transmitted to the auditor of public accounts within one month thereafter. Any inspector failing or neglecting so to do, shall forfeit and pay the sum of one hundred pounds, to be recovered with costs, by motion, in any court of record within this commonwealth, on giving ten days notice of such motion. And if any inspector shall fail or neglect to account with the treasurer for the duties aforesaid, at the stated periods before mentioned, he or they so failing or neglecting, shall be liable to a judgment, on the motion of the solicitor, either in the ge-

neral court, or court of the county where such delinquent shall reside; provided that ten days previous notice be given of such motion *Provided also*, That this act shall continue and be in force until the end of the year, one thousand seven hundred and eighty-seven, and no longer.

CHAP. XXIX.

An act to impose certain duties.

I. *BE it enacted by the General Assembly*, That there shall be paid an additional duty of two pence per gallon on all spirituous liquors, subject by law to a duty, which shall be imported into this commonwealth after the twentieth day of January, one thousand seven hundred and eighty-seven, except French brandies imported from some port within the dominions of the king of France, in vessels belonging to subjects of the said king, or to citizens of the United States; which brandies so imported, shall, after the said twentieth day of January, be duty free. Additional duties on spirits imported.

II. *And be it also enacted*, That three pence a pound on all cheese, and six pence a pound on all tea, imported into this commonwealth, shall be paid after the said twentieth day of January; also a duty of three shillings per hundred, on all imported hemp, and four shillings on all imported cordage; which duties shall be appropriated to the payment of the interest of the military debt. On cheese, tea, hemp, & cordage.

III. *And be it further enacted*, That from and after the twentieth day of January, one thousand seven hundred and eighty seven, every master or owner of a ship or other vessel, coming into this commonwealth, shall pay down to the naval officer with whom he enters, two shillings per ton on every vessel owned wholly by citizens of this state or the United States; three shillings per ton on all vessels owned wholly by the subjects of any foreign power in commercial treaty with the United States; and six shillings per ton on all vessels owned wholly or in part by the subjects of any foreign On tonnage of vessels.

power not in commercial treaty with the United States, which said tonnage shall be in lieu of all former tonnage hereunto imposed, except the tonnage of six pence per ton, imposed by an act of the present session of assembly, for the support of a light house.

CHAP. XXX.

An act concerning the duties on salt, wine, and malt liquors.

Additional duties on salt wine and malt liquors. 1. *BE it enacted*, That from and after the twentieth day of January, one thousand seven hundred and eighty seven, there shall be paid three pence upon every bushel of salt imported into this commonwealth, in lieu of the duty heretofore paid upon the said article.

II. *And be it further enacted*, That an additional duty shall be paid of four pence per gallon on all wines, except French wines, imported into this commonwealth in bottoms belonging to French subjects, or citizens of the United States; and an additional duty also of four pence per gallon on all beer, ale, porter, or other malt liquors, imported into this commonwealth, and not being the manufacture of any of the United States; which said duties shall be appropriated in the same manner as the duty heretofore imposed on salt.

CHAP. XXXI.

An act to impose an additional duty of two per cent. ad valorem, on goods, wares, and merchandise, imported into this commonwealth.

Additional duties. ad valorem on goods imported.

I. *BE it enacted by the General Assembly*, That after the twentieth day of January, one thousand seven hundred and eighty seven, there shall be paid, or se-

ured to be paid, on all goods, wares, or merchandise, imported into this commonwealth, in any ship or other vessel, owned wholly or in part by a subject or citizen of any state or power not in commercial treaty with the United States, to the naval officer where such ship or other vessel shall enter, an additional duty of two per cent. *ad valorem*.

CHAP. XXXII.

An act concerning duties on tobacco.

I. *BE it enacted by the General Asoembly*, That all and every inspector or inspectors, who have collected and actually paid, or shall hereafter pay into the public treasury, the duty of three shillings a hogshead on tobacco exported up to the month of October last, shall be, and they are hereby indemnified and saved harmless from all and every suit or suits at law commenced, or to be commenced against him or them, for and on account of the aforesaid duty of three shillings.

Export duty
on tobacco
explained.

CHAP. XXXIII.

An act to explain the act for reforming certain public boards, and for other purposes.

I. WHEREAS doubts have arisen respecting the duty of the solicitor:

II. *Be it therefore enacted by the General Assembly*, That until the solicitor's office shall be discontinued by the executive, it shall and may be lawful for the said solicitor, and he is hereby required, to proceed to execute the duties of his office agreeably to the directions of the act of assembly passed at the October session,

Duties of solicitor & auditor explained.

one thousand seven hundred and eighty, intituled "An act for the more effectual collection of taxes and public dues," any act to the contrary or seeming to the contrary, notwithstanding. And whereas the mode of keeping the treasurer's accounts in the auditor's office, by carrying to his credit all warrants as they are issued, represents a false balance in favour of the treasurer, perplexes the whole system of public accounts, and may operate to the detriment of the commonwealth: For remedy whereof,

Duty of committee of executive.

III. *Be it enacted*, That the treasurer shall not be credited by the auditor for any warrant until payment thereof shall be notified in the following manner, that is to say, a committee of the executive, consisting of not less than two members, shall once in every three months attend at the treasury office, and ascertain from the books of that office the amount and different species of warrants paid by the treasurer, and certify the same to the auditor, who shall thereupon enter such payments to the credit of the treasurer, and of the several general accounts to which those warrants are respectively charged.

Auditors' office to be conducted by auditor of public accounts.

IV. *And be it further enacted*, That from and after the first day of March next, the whole business of the auditor's office shall be conducted by the auditor of public accounts, who shall give bond with such security as shall be approved by the governor, with the advice of the council, in the sum of ten thousand pounds, payable to the said governor or his successors, in trust, for the use of the commonwealth, conditioned for the faithful discharge of the duties of his office; which bond shall be recorded in the general court. And the said auditor is hereby directed and required to keep separate and distinct accounts with all public collectors or other individuals, being either debtors to, or creditors of the public; and also to keep separate and distinct accounts of all monies paid into each fund, and charge the said fund with all warrants drawn thereon, in books for that purpose.

Bond.

Duty.

V. *And be it enacted*, That the said auditor shall, on the last day of September in every year, balance all the accounts on his books, in order to ascertain what sums are due to and from the commonwealth, and carry the said balances into a new set of books, to be opened by him the first day of October annually.

VI. *And be it further enacted*, That the treasurer shall keep separate and distinct accounts of all monies, warrants, or other articles received by him on account of the public, and carry the same to the credit of the respective funds, to which they are by law appropriated; and that the said treasurer shall on no pretence whatsoever interfere with the said funds contrary to the appropriations made thereof.

Duty of treasurer.

VII. *And be it further enacted*, That the annual books of the said auditor, after the balances of the several accounts therein are carried to a new set as aforesaid, shall be delivered to the solicitor, in order for him to prepare a general statement of the public revenue, the sums paid under each appropriation, and the amount of each received, shewing the balance either for or against the public; for which purpose the solicitor shall have free access to the treasurer's books, point out the mode of stating the same, shewing the nett amount of every species of taxation, and how far the several appropriations have been complied with, and report the same to each session of general assembly. The said solicitor shall also point out the mode by which the auditor shall state his accounts, and assist the said auditor in stating the same, and also in examining the returns from the several sheriffs and other public collectors.

Balances to be delivered to solicitor.

VIII. *And be it further enacted*, That on the first day of March next, the auditor appointed to direct the statement of the public books, and to keep an account with the treasurer, shall be discontinued. The said solicitor shall, with the assistance of a clerk appointed for that purpose, proceed to state all balances of the general accounts in the said office prior to the said first day of January, one thousand seven hundred and eighty-six, and from thence to the first of March next, in a special book, distinguishing between specie, commutibles, and paper transactions, and the balances due under the former government from inspectors, sheriffs, naval-officers, and county court clerks, and all other public debtors; which account of balancés, accurately stated, shall be by the solicitor laid before the next general assembly.

Duty of solicitor on reduction of number of auditors.

IX. *And be it further enacted*, That the said auditor of public accounts shall be allowed two clerks, one of which shall be called chief clerk, who shall perform

Clerks to auditor.

When chief clerk to perform his duties.

the duties of the said auditor, in case of sickness, and shall be allowed the sum of fifty pounds per annum, in consideration of that trust, in addition to the present salary.

Clerks to treasurer and solicitor.

X. *And be it further enacted*, That the treasurer and solicitor shall each be allowed the same number of clerks, as are now employed in their respective offices.

XI. *And be it further enacted*, That so much of any other act or acts, as comes within the purview of this act, shall be, and the same is hereby repealed.

CHAP. XXXIV.

An act authorising the courts of Loudon and Fauquier to keep a certain road in repair.

Courts of Loudon and Fauquier authorised to keep in repair the road leading from Ashby's gap to Alexandria.

I. WHEREAS it is represented to this present general assembly, that the road leading from Ashby's gap to Alexandria, runs about thirteen miles alternately in the counties of Loudon, and Fauquier, in such manner that it is difficult and inconvenient to have the same repaired in the mode prescribed by law: For remedy whereof,

II. *Be it enacted*, That it shall be lawful for the courts of the said counties, and they are empowered to appoint and allot so many hands as they shall think proper, to work on and assist in keeping the said road in repair, from Glasscock's, near the foot of the Blue Ridge, to the lower end of Margery Batson's plantation, as well within their county as without, and the hands so allotted, shall be subject to the like fines and penalties for neglect of duty, and recoverable in either of the said counties, in manner directed by the act "Concerning public roads."

CHAP. XXXV.

An act appropriating certain public taxes to the opening a waggon road from the State road to the mouth of the Little Kanawha, and for other purposes.

I. WHEREAS it has been represented to the present general assembly, that it will be of public utility to open a road from the state road to the mouth of the Little Kanawha, or as near thereto as the situation of the land will admit: And whereas the inhabitants of the county of Harrison, through which the said road is to run, have from their situation on the frontier of the state, been exposed to the ravages of the Indians, and thereby rendered unable to pay their proportion of the public taxes in specie, and have petitioned this assembly that they may be permitted to discharge the arrears now due, and a proportion of those, which will become due, by labour or in supplies necessary for the opening of the said road, which, when effected, will enable them in future, by communication with the western country, to pay their taxes:

Taxes of Harrison county, appropriated to the opening of a road from the State road to the mouth of the Little Kanawha.

II. *Be it therefore enacted*, That William Haymond, Nicholas Carpenter, John Powers, Hezekiah Davison, Thomas Webb, John M'Cully, and Daniel Davison, gentlemen, or a majority of them, shall be, and they are hereby authorised and required, after having taken an oath before the court of the said county of Harrison, and entered into bond with security in the penal sum of four thousand pounds, payable to the governor and his successors, for the use of the commonwealth, for the due and impartial execution of their office, to appoint a time and place of meeting, (giving two months previous notice thereof by advertisement at the courthouse door of each of the counties of Harrison, Monongalia and Ohio,) and then and there proceed to let to the lowest bidder, the opening a waggon road at least thirty feet wide, from such place upon the state road, as a majority of the said commissioners shall think most proper, to the mouth of the Little Kanawha,

or as near thereto as the situation of the land will admit, to be finished fit for the passage of waggons within three years, taking bond with good security in a sufficient penalty from the undertakers, payable to the said commissioners, for the due execution of the said work, in the term aforesaid. The said undertakers shall have power to contract with any person or persons, inhabitants of the said county of Harrison, for personal labour, or supplies of money, or any thing necessary in aid of the said work, and shall give certificates to the person or persons so contributing, to the amount of whatever they have furnished, which certificates, when countersigned by one or more of the said commissioners, the sheriff of the said county of Harrison shall receive in payment for the taxes due from the holder thereof; and the sheriff shall be allowed a credit for all such certificates by him received, at the treasury, in the settlement of his accounts for the taxes for the year one thousand seven hundred and eighty seven.

III. *Provided always, and be it further enacted, That* the said commissioners shall furnish the auditor of public accounts with a transcript of their books of accounts, before any certificates shall be allowed the sheriff in the settlement of his accounts; and no certificate shall be allowed, unless the same is countersigned by one or more of the said commissioners, and entered in the transcript sent by the said commissioners to the auditor of public accounts. Every person in the said county of Harrison, failing to contribute so much to the opening the said road as will be sufficient to discharge his taxes now due, on or before the first day of June next, it shall and may be lawful for the sheriff of the said county of Harrison to collect and distrain for the same, and pay the amount thereof to the said commissioners within two months thereafter; and on failure so to do, the said commissioners may recover the said amount by motion in the court of the said county of Harrison; provided the sheriff has ten days previous notice of such motion. The clerk of the said county of Harrison, shall transmit to the executive, a copy of the bond entered into by the commissioners, together with a certificate of their taking the oath directed by this act, within six months thereafter, under the penalty of one hundred pounds, to be recovered by action

of debt or information, with costs, in any court of record, to the use of the party who will sue for the same. All proceedings against the sheriff of the said county of Harrison, respecting the said taxes, except as herein before directed, shall be suspended until the first day of May, one thousand seven hundred and eighty eight. *Provided always*, That the amount of the certificates to be granted pursuant to this act, shall not exceed the sum of two thousand pounds; nor shall the sheriff of the said county be allowed in the settlement of his accounts with the public, for more certificates than the amount of that sum. And whereas it has also been represented, that it will be of public utility to open a road from Morgan's town, in the county of Monongalia, to a new fishing creek, on the river Ohio:

IV. *Be it therefore further enacted*, That Michael Carns, David Scott, James Coburn, Jacob Scott, George Hiley, Ebenezer Zane, John Boggs, and Benjamin Davies, gentlemen, or a majority of them, shall be, and they are hereby authorised and required, after having taken the oath before either of the courts of the counties of Monongalia or Ohio, and given bond and security as is before directed for the other commissioners, to proceed in like manner towards having a road opened from Morgan Town, in the said county of Monongalia, to or as near Fishing creek, on the river Ohio, as the situation of the ground will admit, under the like rules, regulations, and directions as are herein prescribed for opening the road to the mouth of the Little Kanawha. The sheriffs of the said counties of Monongalia and Ohio respectively, shall be answerable for the taxes of the said counties in like manner, and at the same time, as the sheriff of the county of Harrison. The certificates to be issued by the commissioners of Monongalia and Ohio, shall not exceed the sum of one thousand pounds; nor shall the sheriffs of the said counties be allowed in the settlement of their accounts with the public, for more certificates than the sum of five hundred pounds in each county.

Provision for opening a road from Morgan Town to the mouth of Fishing creek, on the Ohio

Certain taxes of Monongalia and Ohio appropriated

An act concerning manufactured Snuff, and authorising the purchase of Tobacco for that purpose.

Snuff manu-
factured in
this State,
not subject
to duty.

How tobacco
for, obtained.

BE it enacted by the General Assembly, That snuff manufactured in this state and exported, shall not be subject to pay any duty upon being reloaded or reimported. Any person desirous of manufacturing snuff, and giving bond and security in the court of the county where he resides, in the penalty of five hundred pounds, payable to the governor and his successors, for the use of the commonwealth, with condition not to export the tobacco by him received from any warehouse, shall upon producing a certificate thereof from the clerk of the court to the inspectors at any warehouse, and paying the duties thereof, be entitled to, and the inspectors are hereby required to deliver to him or them, or their order, all the tobacco he or they may produce their receipts or notes for; any law to the contrary, notwithstanding.

CHAP. XXXVII.

An act for further continuing the act authorising the Treasurer to receive Specie into the Treasury by weight.

I. WHEREAS the act passed at the last session of assembly, intituled "An act authorising the treasurer to receive specie into the treasury by weight," will expire at the end the present session, and it is expedient that the same should be further continued;

Act autho-
rising treasur-
er to receive
specie by
weight, fur-
ther continu-
ed.

II. *Be it therefore enacted,* That the said recited act shall continue and be in force from and after the expiration thereof, for and during the term of one year, and from thence until the end of the next session of assembly, and no longer.

CHAP. XXXVIII.

An act to amend and reduce into one act, the several acts for regulating pilots, and ascertaining their fees.

I. WHEREAS it is necessary, for the safety and preservation of vessels coming into the bay of Chesapeake, bound up the rivers of this commonwealth, that able and experienced pilots should be established to conduct such vessels for reasonable fees;

Preamble.

II. *Be it enacted*, That Paul Loyal, Thomas Brown, James Barron, John Gwynn, Edward Cooper, Charles Bayless, and James Latimer, or any three of them, be, and they are hereby appointed to examine every person that shall desire to be admitted a pilot, he first producing a certificate from the county court where he resides, of his honesty and good behaviour, paying down to the examiners the sum of thirty shillings; and if upon examination, such person shall appear of sufficient skill and ability, the said examiners shall thereupon grant such person a branch, and thenceforth he shall be reputed a lawful pilot: *Provided*, That no person

Examiners of pilots appointed, who may grant branches.

whatever shall be permitted to execute the business of a pilot, notwithstanding he may have such branch as aforesaid, unless he, or the company to which he belongs, shall keep one sufficient boat of eighteen feet keel at the least, under the penalty of fifty pounds for every vessel such pilot shall undertake to conduct, to be recovered with costs, in any court of record in this commonwealth, by the party suing for the same, to his or her own use; and if any person not having such branch, and keeping such boat as aforesaid, shall presume to take upon himself to conduct or pilot any vessel coming from sea to or from any place or places hereafter mentioned, every such person shall forfeit and pay the sum of fifty pounds to be recovered with costs, in any court within this commonwealth, by the party suing for the same, and moreover such person shall be liable for all damages occasioned by his undertaking the pilotage; to be recovered by action at common law, in any court within this commonwealth, by the party injured. *Provided*, That this act shall not be

What boats pilots to keep

Penalty for acting without a branch.

Not to extend to vessels in distress.

construed to extend to hinder any person or persons from assisting any vessel in distress, so as he or they shall deliver up such vessel to the pilot who shall come on-board and offer to undertake the conducting of her, for which such assistant shall and may demand and receive from the said pilot, half the fees allowed for pilotage by this act. And whereas great inconveniences have arisen from pilots entering into combination or partnership, which has occasioned great neglect of their duty: For prevention whereof,

How many pilots may be in partnership.

III. *Be it enacted*, That no more than four pilots shall be in partnership, under the penalty of one hundred pounds each; to be recovered with costs by any person suing for the same. And for the encouragement of pilots to do their duty, and that all pilots may be induced to keep a good look out;

First pilot offering to be taken

IV. *Be it enacted*, That every master of a merchant's vessel coming from sea, shall be obliged to receive the first pilot, who offers below the Horse-Shoe, to conduct his vessel, or shall pay him full pilotage to the first port, and shall continue the same pilot to his port of discharge; and every pilot cruising or standing out to sea shall offer his services first to the vessel which may be nearest the land, or in most distress; and if any pilot, not being hindered by sickness, or other lawful cause shall refuse to go on board any vessel, when required by the master, to execute his office, such pilot or pilots, in either case, shall, upon complaint and conviction before the examiners or any three of them, forfeit to the party injured, twenty pounds, and be liable to be suspended by them for such time as they shall think fit. Every vessel having no pilot on board, and following another that has a pilot, shall pay him half fees.

Their duties.

Penalty for negligently losing a vessel.

V. *And be it enacted*, That if any pilot shall negligently or carelessly lose any vessel under his care, and be thereof convicted by due course of law, he shall forever after such conviction be incapable of acting as a pilot in this state, and shall be also liable to pay all such damages which any person or persons shall sustain by such negligence or carelessness; to be recovered in manner before directed. And for preventing any exorbitant demands for pilotage.

Rates of pilotage.

VI. *Be it enacted*, That the following, and no greater prices, shall be taken or demanded, to wit: On James

river, for all vessels coming from sea, from Cape-Henry or Lynhaven bay, to Hampton-road, forty shilling's, and for going out to sea thirty shillings. and for each foot depth of water they draw, from Hampton road or Sowell's point to Norfolk, three shillings per foot; to Sleepy-Hole, or Look-out, three shillings and eight pence per foot; to Pagan-creek, three shillings per foot; to James town, seven shillings and three pence per foot; to Martin's Brandon, eight shillings per foot; to Flower de Hundred, eight shillings and six pence per foot; to City-Point or Bermuda-Hundred, eleven shillings per foot; to Four-Mile Creek, thirteen shillings and three pence per foot; to Osborne's, fifteen shillings per foot; to Warwick sixteen shillings and ten pence per foot; and to Richmond, eighteen shillings per foot. On York river, coming from sea, from the Capes or Lynhaven-Bay to York town, three pounds, and for going to sea, two pounds; from Back river, or Egg Island, to York town, thirty shillings; from York town to West-Point, four shillings and ten pence per foot; to Cumberland, six shillings per foot; to the highest landings on Pamunkey, seven shillings and six pence per foot; to Shepherd's five shillings and six pence per foot; to Meredith's, Moore's, or the highest landings on Matapony, seven shillings and two pence per foot; from Cape-Henry, to any river on Mobjack bay, three pounds; from the Cape to Urbanna, four pounds, and for going from Urbanna to sea, three pounds; from Urbanna to Hobb's-Hole, three shillings and six pence per foot; to Naylor's-Hole, four shillings and ten pence per foot; to Leed's or Micou's, seven shillings and nine pence per foot; to Port-Royal, eleven shillings per foot; to Fredericksburg, thirteen shillings and nine pence per foot; from Cape-Henry to Pianketank, four pounds; from Cape-Henry to Smith's point on South Potowmack, coming from sea, six pounds, and for going out, five pounds; from Smith's-Point to Coan or Yocomico, three shillings per foot; to Machadock, three shillings and six pence per foot; to Upper Machadock, four shillings and ten pence per foot; to Nangomy, six shillings per foot; to Boyd's-Hole, six shillings and six pence per foot; to Quantico, seven shillings and three pence per foot; to Ocoquan, seven shillings and nine pence per foot, to Piscataway, nine shillings and six pence per foot; to Alexandria, eleven shillings and four pence

per foot; to Eastern-Branch, twelve shillings per foot; and the same fees by the foot back again, and from the places aforesaid to the Capes. And where any master of a vessel shall give reasonable notice to the pilot he shall employ, of the time and place such master shall appoint for his attendance, and such pilot shall attend accordingly, he may demand and take the sum of ten shillings for every day he shall be detained by such master's not being ready to proceed according to his notice; and if any pilot shall demand or exact any other or greater fee, he shall forfeit double the sum so demanded, recoverable before two justices, one of whom being of the quorum, with costs by the informer. And to the end, that strangers may not be imposed on in the rates of pilotage as settled by this act,

Pilots to exhibit a copy of the law.

VII. *Be it enacted*, That every pilot appointed in pursuance of this act, shall be obliged, when he is in execution of his office, to carry with him a copy thereof; and when he receives the fees for the services performed on board any vessel, he shall produce the said copy to the master of the vessel, to shew that he demands no greater fee than is allowed by this act; and if any pilot shall neglect or refuse such copy as aforesaid, he shall forfeit and pay twenty pounds, to any person who shall sue for the same, to be recovered in any court within this state. And where any pilot has reason to believe the master of any vessel will not pay the pilotage,

Payment of pilotage, how enforced.

VIII. *Be it enacted*, That the pilot make out his account for the pilotage due him, and deliver the same to the naval-officer, where the master of such vessel clears out; and the said naval-officer, is hereby authorised to demand and receive the said pilotage, before the master shall be permitted to clear out his vessel. The naval-officer shall retain two and a half *per centum* for receiving the money and paying the same to the pilot. And for the further encouragement of pilots to do their duty.

Pilots exempted from militia duty.

IX. *Be it enacted*, That every branch-pilot shall be, and he is hereby exempted from militia duty, during the time he shall act as pilot.

Public printer to furnish copies of this act.

X. *And be it further enacted*, That the public printer shall furnish the examiners on demand, with one hundred copies of this act; one of which copies, signed by

three of the said examiners, shall be delivered to each pilot.

XI. *And be it further enacted*, That all and every other act or acts, as comes within the purview of this act, shall be hereby repealed.

CHAP. XXXIX.

An act admitting certain receipts for Hemp to be received in discharge of the taxes due for the years 1782 and 1783.

I. WHEREAS, by an act of assembly which passed in the year one thousand seven hundred and eighty four, intituled "An act to discharge the people of this commonwealth from the payment of one half of the revenue tax for the year one thousand seven hundred and eighty five, the inhabitants of the counties westward of the Blue Ridge were permitted to discharge their arrears of taxes due for the years one thousand seven hundred and eighty two, and one thousand seven hundred and eighty three, in hemp at thirty shillings per hundred, provided the same was delivered on or before the twentieth day of December, in the year one thousand seven hundred and eighty five. And whereas it has been represented to the present assembly, that a number of the said inhabitants are at this time possessed of receipts for hemp, delivered pursuant to the directions of the said recited act, and it is doubted whether the same can now be received from the sheriffs or collectors, because of the expiration of the said act of assembly:

Certain receipts for hemp, receivable for taxes.

II. *Be it therefore enacted*, That the receipts for hemp delivered according to the directions of the said recited act, shall be receivable for the taxes due in the years one thousand seven hundred and eighty two, and one thousand seven hundred and eighty three, in like manner as if the said act had not expired.

III. *And be it further enacted*, That upon any of the said receipts being paid into the treasury, if it shall be found that any of the hemp for which such receipts were given by the commissioners be not forthcoming, the treasurer shall give information of the same to the solicitor, who is required by this act to proceed against the said commissioners in the same manner as against other public debtors. *Provided always*, That no receipts for hemp shall be received from any sheriff, or his deputy, unless he shall make oath that the receipts he renders were actually received by him in discharge of taxes, or were exchanged for hemp receipts he had received as aforesaid.

CHAP. XL.

And act to amend the several acts of Assembly concerning Naval Officers, and the collection of the Duties.

Preamble. I. WHEREAS it is expedient that the collection of the duties on imports should be more effectually secured,

Collection of duties. II. *Be it enacted*, That the duties already imposed, or hereafter to be imposed on vessels coming, and on goods, wares, and merchandises, imported into this commonwealth, shall be ascertained, paid, or secured to be paid, and accounted for in like manner, and under the regulations, penalties, and forfeitures, in all respects whatsoever, as the duties heretofore imposed, excepting so far only as shall be otherwise directed by this act.

Articles exempted from duties. III. *Provided always, and be it enacted*, That no duties shall be payable on any articles imported for the use of this commonwealth, or which are the property of the United States, or either of them. *Provided also*, That no duties shall be payable on any articles imported directly by water, in vessels belonging wholly to citizens of the United States, which shall be

proved to be of the growth, produce, or manufacture of the state from which they shall be imported, by a certificate thereof under the hand and seal of a notary public, naval officer, or a chief magistrate of the place of their exportation.

IV. *And be it enacted*, That over and above the tonnage above mentioned, every master or owner of a ship or other vessel, coming into this commonwealth, shall pay down to the naval officer with whom he enters, six pence per ton for such ship, or other vessel, which shall be accounted for by the naval officer in the same manner with other duties, and shall be appropriated to the building and support of a light-house. Additional tonnage duties.

V. *And be it enacted*, That the master or owner of every ship or other vessel, coming into this commonwealth, shall proceed with his vessel without delay to the port at which he intends to enter; and shall within twenty four hours after his arrival into such port, make a true and just report, upon oath, of his vessel and cargo, as is by law required; and in case of failure herein, such master or owner shall forfeit two hundred pounds; one half to the use of the commonwealth, and the other half to the person suing for the same in any court of record. Entry of vessels and cargos.

VI. *And be it further enacted*, That the respective naval officers within this commonwealth, shall receive from each captain or commander of any vessel, at the time of their entrance, and at the time of their clearance, one shilling for every seaman and mariner on board his vessel. Tax on seamen.

VII. *And be it enacted*, That every master or commander of any vessel, failing to make a just and true return of all seamen or mariners, as required by law, shall forfeit five pounds for each seaman or mariner not returned, recoverable in any court of record, on motion, with ten days previous notice; one half to the use of the commonwealth, the other half to the use of the person moving for the same. The naval officers shall reside at the places where their offices are respectively kept; and all entrances and clearances of ships, or other vessels, shall be made at the naval office of the district where such ships or other vessels shall lie. Penalty for false return of seamen.
Naval officers to reside where offices kept.
 The permits to be granted by the naval officers, in cases of inward entries, shall specify the tonnage of the

vessels respectively, and the several casks, parcels, packages, and other articles of merchandise, however described or named, therein laden, with the marks and numbers thereof, to whom consigned, and the amount of the duties thereupon paid, or secured to be paid, and shall also specify the places at which such goods, wares, or merchandises, are to be delivered; and shall particularly express that no such delivery shall be made, until the permits therefor shall be exhibited to, and countersigned by the searchers of the respective places. And the naval officers shall

Permits, what
to specify.

Penalty for
unlading
without per-
mit.

make out an exact copy under their hands and seals, of each permit for the searchers at the places of delivery, which copy shall be sealed up, shall be committed to the master or commander of the vessel, and delivered to the searcher, before the permit shall be countersigned by him. And every vessel, from which any goods, wares, or merchandise, subject to a duty, shall be unladen or put on shore, before the obtaining, or contrary to the tenor of the permit, shall, together with her rigging, tackle, apparel and furniture, and with the goods, wares, or merchandises, so unlawfully put on shore or unladen, be forfeited and condemned in the court of admiralty; one half to the use of the commonwealth, the other half to the use of the libellant. And if any ship or other vessel shall be seized and libelled under this act, and the libel shall be dismissed, no costs shall be recoverable against the libellant, nor damages for the seizure, if the court shall be of opinion that there was probable cause for the same. If any owner, master or commander, of any vessel, shall sell, or offer for sale, any goods, wares, or merchandize, liable to a duty at any port or place of lading or unlading such goods, wares, or merchandise, within this commonwealth, or shall permit or suffer the same to be sold on board the said vessel in retail, the goods, wares, and merchandise so sold or offered for sale, shall be seized and forfeited, and the offender or offenders shall moreover forfeit and pay the sum of fifty pounds for every such offence; one half thereof to the use of the commonwealth, and the other half to the informer; recoverable by information in any court of record within this commonwealth. Each searcher shall be commissioned by the governor, and shall at the court of the county or corporation, in which he resides, next after the commencement of this act, or

Searchers,
how appoint-
ed; their du-
ties.

after his appointment, as the case may be, take an oath, and enter into bond with sufficient security, in the sum of one thousand pounds, payable to the governor for the time being, to the use of the commonwealth, for the faithful performance of his duty. It shall be the duty of the said officers to attend to the delivery and unlading of all goods, wares, and merchandises, at the places for which they may be appointed; to go on board any ship or other vessel coming to such place, as often as may be requisite, and to seize and pursue to condemnation all vessels and their furniture, and all goods, wares, and merchandises liable thereto; in all which cases they shall be entitled to one half of the forfeiture, and the other half shall be to the use of the commonwealth. They shall also, whenever there shall be reason to suspect that the tonnage of any vessel has not been truly entered, measure the same according to the rule prescribed by law; and if it shall appear from such admeasurement, that a deficient entry has been made, they shall certify such deficiency to the naval officer of the district, to whom a double duty shall be paid on the omitted tonnage, before the vessel shall be permitted to clear out; and a copy of such certificates shall be transmitted quarterly by the searchers, to the auditor of public accounts. The searchers shall also register in books kept for that purpose, descriptions and lists of all vessels, and of their cargoes delivered or unladen at the places for which they are appointed respectively, according to the permits granted by the naval officer; and shall quarterly transmit the counterpart of each permit furnished them by the naval officer, to the auditor of public accounts. And for any default herein, they shall forfeit two hundred pounds, to the use of the commonwealth, to be recovered by the solicitor, by motion, with ten days previous notice in any court of record, and may be displaced from office by the executive.

VIII. *And be it further enacted*, That where it may be necessary for the dispatch of business, the searchers Assistant searchers. at the ports of Norfolk and Alexandria, shall and may appoint so many assistants, and may make them such allowances as the governor, with the advice of council, shall authorise and approve; provided that such searchers shall be answerable for the conduct of their respective assistants.

Further duties of searchers.

IX. And be it enacted, That it shall be lawful for the searchers, as well as for the naval officers, and for any other person, having good cause to suspect that any goods, wares, or merchandises, on which duties have not been paid, are stored or secreted in any house, warehouse, or storehouse, to apply to a justice of the peace, or alderman of the corporation, for a warrant (which warrant shall not be granted but on information upon oath) and being accompanied with a constable, to break open in the day time, such suspected house, warehouse, or storehouse, when it may be necessary; and any goods so found, on which the duties have not been paid, or secured to be paid, may be seized and carried away, and together with the vessel from which the same were delivered. shall be forfeited; one half to the use of the naval officer, searcher, or other person prosecuting for the same, the other half to the use of the commonwealth. And if any officer or other person shall be sued or prosecuted for any thing done by virtue of the power hereby given, he may plead the general issue, and give this act in evidence, and if in such suit, the plaintiff be non-suited, or judgment pass against him, the defendant shall recover double costs; and in all actions, suits or informations brought, or where any seizure shall be made pursuant to this act, if the property be claimed by any person as the owner or importer thereof, in all such cases the *onus probandi* shall lie on the owner or claimer.

Casks of wine or spirits, how estimated.

X. And be it enacted, That no person shall be required to give account upon oath of the true contents of any pipe or lesser cask of wine, or any hogshead or lesser cask of spirits, beer, ale, porter, cyder, or molasses imported, but shall have liberty to enter a pipe or hogshead as aforesaid, at one hundred and ten gallons, and all lesser casks after the same proportion. And to prevent fraud by the importation of the liquors aforesaid, in casks of unusual size.

When casks may be gauged.

XI. Be it further enacted, That where it shall be supposed by any naval officer, or searcher, that any pipe, hogshead, or lesser cask, contains more of any of the aforesaid articles, than has been entered, he is hereby authorised to have the same gauged, and if the contents shall exceed the quantity entered ten *per centum* or more, every such pipe, hogshead, or other cask,

shall, with its contents, be liable to seizure and forfeiture; one half to the use of the commonwealth, the other half to the use of such officer.

XII. *And be it enacted*, That when any naval officer, or searcher, shall suspect that any package or parcel of goods contains any article that has not been entered, or a greater quantity of any article than has been entered, it shall be lawful for such officer to open and examine such package or parcel, and in case it shall appear that an untrue entry has been made, with an intention to defraud the commonwealth of any part of the duties, every such package or parcel, together with the ship or other vessel, rigging, tackle, apparel, and furniture, in which the same was imported, shall be liable to seizure and condemnation in the court of admiralty; one half to the use of the commonwealth, the other half to the use of such officer.

When packages of goods may be opened.

XIII. *And be it enacted*, That any master or skipper of a vessel intending to transport any goods, wares, or merchandises, liable to a duty, from one district to another, shall obtain from the naval officer of the district from which they are to be transported, a permit under the hand and seal of such officer, describing the vessel with the casks, packages, and parcels therein laden, according to their respective marks and numbers, specifying the district into which they are to be transported, and certifying that all the duties thereon have been duly paid or secured to be paid, on producing which permit to the naval officer of such latter district, such master or skipper shall be entitled to a permit from him to deliver and unlade his cargo at the place or places authorised by law. And if any such goods, wares, or merchandises, liable to duty, shall be delivered or unladen, or shall be found on board, without having obtained such permit, the same shall, together with the vessel, rigging, tackle, apparel and furniture, be liable to seizure and condemnation in the court of admiralty; one half to the use of the commonwealth, the other half to the person suing for the same.

Transportation of goods from one district to another.

XIV. *And be it enacted*, That any master or owner of any ship or other vessel coming into this commonwealth, and laden with goods wares, or merchandises, a part whereof only are to be delivered in this commonwealth, shall be admitted to enter and deliver the same, on paying or securing to be paid the duties

Rule where part only of the goods destined for this state.

thereon together with such proportion of the tonnage as will correspond with the proportion which the value of such part bears, to the value of the whole cargo. And if any other part of the cargo liable to duty, shall be unladen or put on shore, the same shall, together with the vessel, rigging, tackle, apparel and furniture, be subject to seizure and condemnation in the court of admiralty as aforesaid; one half to the use of the commonwealth, the other half to the party suing for the same.

Goods deposited, as security for duties when.

XV. *And be it further enacted*, That when any master, commander, or owner, of any ship or vessel, importing goods, wares, or merchandise, into this commonwealth, cannot give security for the duties payable thereon, it shall be lawful for the naval officer to take into his possession so much of the said goods, and dispose thereof, as will pay the duties on the same, giving four weeks notice of such sale in the public Gazette.

Officers obstructed in the execution of this act, how assisted.

XVI. *And be it further enacted*, That when any officer of the customs, or officer of the state boats in making seizure of any vessel, or of goods, wares, or merchandise, shall meet with obstruction in the execution of his office, such officer is hereby authorised, whenever he shall see occasion, to summon any person or persons, or to impress any vessel or vessels, for his assistance. The person or persons so assisting, shall be allowed for their trouble, one half the sum given by law to such officers making seizure. If any person be summoned as aforesaid, and fail to render the assistance required, not having a reasonable excuse, he shall forfeit and pay the sum of twenty pounds, to be recovered on motion of the officer in the court of the county where the party resides, and applied by the court towards lessening their county levy; *Provided*, ten days notice be given of such motion. And the better to guard against frauds in the district of South Potowmack and river Pocomoke.

What goods may be waterborne.

XVII. *Be it enacted*, That no goods, wares, or merchandises, of greater value than ten pounds, shall be waterborne in any one vessel at one time from any port or place, to another port or place within the said district of South Potowmack and river Pocomoke, unless it shall be certified under the hand and seal of the naval officer of the district, or of a searcher, or some justice

of the peace within the same, that he has sufficient reason to believe that the duties have been paid or secured to be paid thereon; and if any goods, wares, or merchandises, so waterborne, without a certificate accompanying the same, shall be put on shore, they shall, together with the vessel or craft from which they shall be delivered, be liable to seizure and condemnation in the court of the county or corporation wherein seizure shall be made; one half to the use of the commonwealth, and the other half to the use of the person prosecuting for the same, which court is hereby authorised to take cognizance of, and determine all such causes according to the laws and usages observed in the court of admiralty, *Provided*, That where the value of the things seized and condemned shall exceed twenty pounds, an appeal shall lie to the court of admiralty, which is hereby authorised to take cognizance of and determine the same, the defendant in such case giving bond with security at the time of entering his appeal, to prosecute the same with effect, in like manner as is required in cases of appeal from a county or corporation court to the general court; But the court of the county or corporation, in which such condemnation shall be had, may, notwithstanding such appeal, direct sale to be made of the things condemned, and the money arising therefrom, to be paid to the clerk of the court to await in his hands the determination of the court of admiralty.

XVIII. *And be it enacted*, That the several naval officers shall settle with the auditor of public accounts up to the first day of February next, and shall pay into the treasury all balances appearing then to be due from them, and shall thereafter pay quarterly into the treasury, all monies coming into their hands by virtue of their offices. All bonds for duties now unsatisfied in the hands of the said officers, shall by them be delivered to the solicitor, with an endorsement thereon of any partial payments which shall have been made, and of the times of such payments. And all bonds which shall hereafter be taken for duties unpaid to the naval officers at the time of entry, shall by them be forthwith transmitted to the solicitor. For all bonds so delivered or transmitted to the solicitor, two receipts shall be given by him to the naval officer, who shall deposit with the auditor of public accounts one of such receipts, and a

When naval officers to account.

Duty bonds how recoverable.

list of the bonds put into the hands of the solicitor, and the auditor shall charge the solicitor with all such bonds. The solicitor shall advertise four weeks successively in the public Gazette, that such bonds are in his possession, specifying the sums due thereon, and the times at which the same will be payable, and on failure of payment, the solicitor shall at the succeeding general court, or county court of Henrico, move for judgment against the principals and securities in such bonds; and the said courts are hereby authorised to give judgments for the sums due, with five *per centum* interest, and costs of suit; and on the executions to be issued thereupon, the clerk shall endorse "no security to be taken." And so soon as the solicitor shall receive all or any part of the sums due on such bonds or executions, he shall immediately pay the same into the treasury, and the receipts obtained therefor shall entitle him to a credit for so much with the auditor. Any naval officer, or solicitor, failing to pay the money into the treasury agreeably to this act, shall forfeit and pay five hundred pounds for every such failure, and shall be suspended from his office by the executive. And any naval officer failing to deliver the bonds to the solicitor as required by this act, shall forfeit and pay five hundred pounds for every such failure, and shall in like manner be suspended from his office.

Penalties on
naval officers.

Bond and security by solicitor.

XIX. *And be it enacted*, That the solicitor shall, on or before the first day of February next, enter into bond with sufficient securities, payable to the governor for the time being, in the sum of ten thousand pounds, conditioned for the faithful performance of the duties of his office, and for the payment of all public monies by him received.

Within what
hours goods
may be deli-
vered from a
vessel.

XX. *And be it enacted*, That no goods, wares, or merchandizes whatsoever, shall be delivered or unladen from any ship or other vessel importing the same, unless it be between sun-rise and sun-set; and in case any such be delivered or unladen at any other time, the same shall, if the packages or parcels be unbroken, be liable to seizure and condemnation, although it shall appear that they have been regularly entered; and in case they shall not be in unbroken packages or parcels, it shall be considered as evidence that they have not been duly entered, and they shall, together with the vessel, rigging, tackle, apparel and furniture, be liable

to seizure and condemnation, as in other cases of unlawful delivery of unentered goods.

XXI. *And be it enacted,* That the several naval-officers, and searchers, shall be subject, the former to be suspended, the latter to be suspended or displaced, at the pleasure of the executive, and shall in the mode of keeping their offices and books, and in the forms of making out their permits, certificates, returns, and other instruments of writing, obey such instructions as they may from time to time receive from the executive. And any member of the executive may at any time, with the approbation of the board, visit the several places where the naval-offices are kept, or searchers appointed; and shall have power to inspect their offices, books, and public papers, and to suspend any of the said officers for the space of one month, appointing another person to do the duties of the office in the mean time. And such member of the executive, during the time of performing such visit, shall be entitled to his salary, and shall moreover be allowed fifteen shillings per day for his travelling expences. Each naval-officer shall keep a seal of office, of a form and device to be approved by the executive, and shall deposit with each of the other naval-officers, and with each of the searchers of his district, an exact impression thereof.

Naval officers and searchers how suspended or removed.

Subject to control of executive.

Seal of office

XXII. *And be it enacted,* That if any ship or other vessel coming from sea, or from Maryland, shall pass Newport-News point without first making entry with the naval-officer, such ship or other vessel, together with her rigging, tackle, apparel and furniture, shall be liable to seizure and condemnation in the court of admiralty, one half to the commonwealth, the other half to the person suing for the same.

When ships to enter.

XXIII. *And be it enacted,* That in future all registers of ships or other vessels shall be granted by the executive, and shall be signed by the governor, with the seal of the commonwealth annexed. And the clerk of the council shall, before he delivers any such register, demand and receive fifteen shillings, if the vessel be under one hundred tons, and thirty shillings, if the vessel be of great burden; which money, after a deduction of two and a half per centum, as a commission to the said clerk, shall by him be quarterly paid into the treasury.

Registers of vessels.

Duty on
goods bro't
by land, how
recovered.

XXIV. *And be it enacted,* That the owner or importer of any goods, wares, or merchandise, who shall bring the same by land into this commonwealth, shall, before he shall take any such goods, wares, or merchandise out of the waggon or other carriage, in which they may be brought into this commonwealth, go before the clerk, his deputy, or some acting magistrate of the county in which he wishes to unload any such wagon or carriage, and produce before such clerk, his deputy, or magistrate, an account of the quantity of any such goods which shall be in the said waggon or carriage, and also an invoice of the quantity and first cost of any other goods, wares, or merchandise, which may be in the same, and shall moreover make oath that the said account and invoice contain a true and just account of goods, wares, and merchandise, which he has brought in the said waggon or other carriage into this state. And if any such importer or owner shall unload any such waggon or other carriage, containing any of the above goods, wares, or merchandise, brought into this state by land, without having first entered the same as directed above, every such waggon or other carriage, together with the horses thereto belonging, and all such goods, wares, and merchandise, as shall be brought therein, shall be forfeited, and recovered by information in the court of the county; two thirds to the informer, and one third towards lessening the levy of the county where such conviction shall be made.

To whom
paid.

XXV. *And be it further enacted,* That every such importer or owner, on making such entry with the clerk, his deputy, or a magistrate, shall pay the duties directed by this act to be paid on such articles as shall be contained in the said account or invoice, or shall enter into bond with sufficient security to such magistrate, the clerk, or his deputy, for the payment of the same within six months. And where any such bond shall be given to a magistrate, he shall return the same within twenty days to the clerk of the court. And any such magistrate, clerk, or his deputy may, in case any importer or owner, of any such goods, wares, and merchandise, shall fail to pay the duties imposed thereon, or give bond as aforesaid, proceed (in like manner as is directed above for the naval officers) to seize and sell for ready money, at public sale, so much of the said goods as will pay the duties on the same.

XXVI. *And be it further enacted,* That it shall and may be lawful for any such magistrate, clerk, or his deputy, when any such entry shall be made with either of them, to open and examine any one or more bale, cask, or package, contained in such entry; and if the goods contained in any such bale, cask, or package, shall exceed by fifteen per cent. either in quantity or value, the quantity or value mentioned in the said entry, the waggon, horses, and all the goods, of what kind soever, shall be forfeited; to be recovered and divided in manner above directed.

Goods may be examined.

XXVII. *And be it further enacted,* That any such importer or owner bringing any such goods, wares, and merchandise into this state by land, who shall fail to make such entry, shall for every waggon or other carriage so employed, forfeit and pay the sum of twenty pounds; to be recovered and divided in the manner above directed. *Provided,* That he shall not be subject to this penalty, if the goods so imported and not entered, are themselves seized. *Provided also,* That no such information shall be filed more than six months after such entry ought to have been made.

Penalty for failure to enter goods brought by land

XXVIII. *And be it further enacted,* That when any such importer or owner shall fail to pay such duties on such goods, wares, and merchandise, when the same becomes due, it shall and may be lawful for the clerk of the court of the county where such bond is given, or his deputy, to move for judgment in the said court against the principal or his security, and the court is hereby authorized, previous notice being given of such motion, to give judgment for the same with interest, and five per cent. damages; and when execution issues, the clerk shall endorse "no security to be taken."—All monies received by the clerks of the county courts by virtue of this act, shall be accounted for and paid by them in the same manner, and with the same allowance for their trouble, as the money arising on law process, and they shall be subject in case of neglect, to the same penalties and forfeitures that they are in that case.

How such duties recoverable.

XXIX. *And be it further enacted,* That it shall and may be lawful for the executive to appoint one or more searchers in any part of this state, to carry this part of this act into execution. And for the purpose of establishing and regulating drawbacks,

Searchers, for such goods, how appointed.

Drawbacks,
rules con-
cerning.

XXX. *Be it enacted*, That draw-backs shall be allowed after the first day of February next, under the limitations and restrictions herein after mentioned:— That no draw-backs shall be allowed for any merchandise liable to duty exported out of the state, unless exported within sixty days after importation thereof by the original importer, and by water, and unless exported in the original cask or package in which they were imported unbroken, and in vessels belonging to a citizen or citizens of the United States, or in the vessel in which they were originally imported; and such importer desiring to export such merchandise, shall deliver to the naval officer of the port from whence the same is intended to be exported, at the time of obtaining a permit to lade such merchandise on board any vessel, a fair manifest, containing the marks and numbers of the pipes, hogsheads, trunks, casks, bales, packages, or other things containing any such dutiable merchandise, and a full and particular list of all the articles thereof, with the cost, according to the account by which the duties thereon were ascertained, and shall make oath or affirmation, to be endorsed on such manifest, containing also a description of the vessel in which they were imported, and the time of importation, and that it is a true manifest of all the dutiable merchandise intended to be re-exported in the vessel mentioned in the permit, and that the merchandise mentioned in such manifest were duly entered, and the duties thereon paid or secured to be paid according to law; which manifest shall be transmitted by the naval officer to the auditor of public accounts; and such importer shall also give bond with sufficient security, that the said merchandize shall be exported out of the state without fraud or deceit; which bond shall be transmitted to the solicitor by such naval officer: And the master or skipper of the vessel receiving such merchandise, shall take a clearance thereof, and make oath or affirmation to the manifest thereof, that he will not land or permit to be landed, such merchandise in any part of this state, but will deliver the same (dangers of navigation only excepted) at the place mentioned in the clearance; and if such exporter shall within six months after the date of such bond, produce a certificate from a naval officer, notary public, or chief magistrate of any other state or country, that

such merchandise was duly entered in such state or country, or shall make it appear within six months from the time such goods may be shipped, by indifferent testimony, to the satisfaction of any two judges of the court of admiralty in or out of session, that the vessel in which such goods, wares, and merchandise, may have been exported, and the cargo shall have been lost by tempest, or other accident, in such cases, the exporter shall be entitled to receive from the treasury, the duties which shall have been paid on such re-exported goods, wares, or merchandise, or to have the bond securing such duties cancelled, where such bond shall not have been paid. *Provided*, That no draw-back shall be allowed unless demanded within three months from the time of the re-exportation of any such goods, wares, or merchandise, except where the cargo shall have been lost by tempest or other accident, nor on any sum less than the value of fifty pounds, nor until a permit to lade such merchandise on board any ship or vessel, shall have been first had and obtained from the naval officer of the port from whence the same is intended to be exported.

XXXI. *And provided also*, That no draw-backs shall be allowed, except for goods which shall have been actually landed, and afterwards re-shipped for exportation, and unless the manifest thereof specifying the casks, packages, and parcels, with the marks and numbers of the same, and the vessel in which they were imported, shall have been certified by the searcher to the naval officer, before any permit for the exportation of the same shall be granted. Proviso, as to draw-backs.

XXXII. *And be it further enacted*, That the keepers of the several ferries established by law, over the river Potowmack, shall, on or before the first day of June next, enter into bond with good and sufficient securities, in the penalty of fifty pounds, with the courts of the respective counties in which the said ferries are kept, payable to the governor for the time being, conditioned, that they will examine all waggons and carts going from this commonwealth over the said river at the respective ferries, which they are hereby authorised to do, and will not suffer any waggon or cart, loaded wholly or in part with tobacco, to pass the said ferries, or tobacco to be carried over the said ferries in any other manner whatsoever, unless the person carrying Duty of keepers of ferries over the Potowmack.

such tobacco, or driving such waggon or cart, shall produce a certificate to the ferry keeper from the inspector of some warehouse within this commonwealth, specifying the marks and weights of such tobacco, and that the duties imposed thereon had been paid according to law. No person shall carry tobacco over the said river in any other manner than in hogsheads of the legal size, under the pain of forfeiting five pounds for every such offence, to the use of the informer, to be recovered by information in any court of record with costs. If any ferry keeper carry or permit to be carried over the said river, any tobacco contrary to the true intent and meaning of this act, it shall be deemed a forfeiture of his bond, and the attorney for the commonwealth in the county in which such ferry keeper resides, shall thereupon move for judgment for the penalty of the said ferry keeper's bond, giving ten days previous notice of such motion, and the court shall grant judgment, and award execution in the same manner as against the collectors of the public taxes; and the sheriff of such county shall account to the clerk of the county for the proceeds of such execution; one moiety of which the clerk is hereby required to pay into the treasury in the same manner as other public monies, and the other moiety to the informer. Any person attempting to carry tobacco over the said river at any other place, without a certificate as aforesaid, shall forfeit five pounds for every such offence, to be recovered by information in any court of record, with costs, and applied, one moiety to the use of the informer, and the other moiety to the use of the county where such attempt shall be made, towards lessening the county levy.

Naval officer
in Northampton
where to
keep his office.

XXXIII. *And be it further enacted*, That the naval office in Northampton county, shall, from and after the passing of this act, be kept at the court house of the said county.

Penalties appropriated.

XXXIV. *And be it further enacted*, That all forfeitures by this act to the use of the commonwealth, shall be appropriated in the first instance to the salaries of the naval officers and searchers; and thereafter to the contingencies of government.

XXXV. *And be it enacted*, That this act shall commence and be in force on the twentieth day of January,

one thousand seven hundred and eighty seven, and not sooner.

XXXVI. So much of all and every act or acts, as comes within the purview of this act, shall be, and is hereby repealed.

CHAP. XLI.

An act for placing the naval officers on the civil list.

I. WHEREAS the profits arising to the naval officers, are much larger in many instances than the legislature expected at the time the officers were appointed, and it being expedient to give every aid to the public revenue, where the same can be attained with justice, and without increasing the burthens of the good citizens of this commonwealth: Preamble.

II. *Be it therefore enacted by the General Assembly,* Naval officers placed on the civil list.
That from and after the twentieth day of January, one thousand seven hundred and eighty seven, the several naval officers, in lieu of their former commissions and fees, shall have and receive the following salaries annually that is to say: The naval officer for Elizabeth river district, three hundred pounds; the naval officer for James river district, two hundred pounds; the naval officer for York river district, one hundred and fifty pounds; the naval officer for Rappahannock district, two hundred pounds; the naval officer for Potowmack district, two hundred and fifty pounds; the naval officer for Accomack district, fifty pounds; and the naval officer for Northampton district, fifty pounds; to be paid quarterly, and in like manner as the salaries of other officers of civil government: And moreover there shall hereafter be paid and allowed to each of the said naval officers a commission of one *per cent.* on all monies by them respectively received and paid into the treasury, by virtue of their office, and also a commission of three fourths of one *per cent.* on the amount of all bonds for duties by them taken. Salaries. And whereas great inconveni-

ences arise by vessels being allowed to run up James river, without making entry before they get to Bermuda hundred: For remedy whereof,

Vessels may
clear out at
Norfolk or
Hampton.

III. *Be it enacted*, That the master or commander of all vessels coming from sea, or Maryland, into Hampton road, shall be at liberty to enter and clear such vessels with the naval officer either at Hampton or Norfolk; any law to the contrary, notwithstanding.

Naval officers
to reside
where office
kept.

IV. *And be it further enacted*, That each naval officer shall reside at the port or place where his office is kept, shall attend to the duty of his said office, and shall not directly or indirectly be concerned in trade.



CHAP. XLII.

An act to amend the act, intituled An act to restrict foreign vessels to certain ports within this commonwealth.

Foreign ves-
sels restrict-
ed to certain
ports.

I. **FOR** the better securing the revenue, arising from duties on imports and exports, whereby the burthen of taxes upon the people may not be encreased, and for regulating the trade of this commonwealth, whereby foreigners may be placed on a more equal footing, and the increase of seamen in this state be promoted by a due attention to internal navigation, for the extension of the commerce thereof;

Ports of en-
try and clear-
ance.

II. *Be it enacted*, That from and after the first day of April next, the following places shall be, and the same are hereby established as ports of entrance and clearance for all ships and other vessels coming from or going to any port or place without this commonwealth, that is to say: For the district of Elizabeth river, the port of Norfolk, for the district of James river, the port of Hampton; for the district of York river, the port of York; for the district of Rappahannock river, the port of Urbanna; for the district of South Potowmack, for all vessels coming from or going to sea, any part of the

Chesapeak bay, or any part of the Maryland shore below Point Look-Out, at the port of Yocomico; all vessels coming from or going to any part of the Maryland shore above the said Point Look-Out, at the said port of Yocomico or at the port of Alexandria; (provided that in all cases of entrance or clearance at Alexandria, the same shall and may be made with the deputy appointed by the naval officer of the said district); for the district of Accomack, at Accomack court-house; and for the district of Northampton, the port of Cherryston. And that all vessels coming into or going out of this commonwealth shall proceed to one or other of the said ports, and shall there be subject to such regulations as are or may be by law established. And the masters or owners of such vessels shall perform and do all things which shall be lawfully demanded of them, or either of them, by the naval officers residing at the said ports respectively. And no ship or other vessel coming into or going out of this commonwealth, shall break bulk or sail from thence without a legal permit for that purpose first obtained from the naval officer at the port within the district into which such vessel shall enter, or from which such vessel may go.

III. *And be it further enacted*, That the following places shall be, and the same are hereby established as Ports of delivery. ports of delivery for the lading and unlading of all vessels coming into or going out of this state, that is to say; For the district of Elizabeth river, the ports of Norfolk or Portsmouth; for the district of James river, the ports of Bermuda-Hundred or City Point; for the district of York-river, the port of West-Point; for the district of Rappahannock river, the port of Tappahanock; for the district of Potowmack river, the ports of Alexandria and mouth of Quantico; for the district of Accomack, at Follys landing and Onancock; and for the district of Northampton, at Cherryston.

IV. *Provided always, and be it further enacted*, That any vessel built within the United States, and wholly owned by any of the citizens thereof, shall and may lade at any port or place within this commonwealth, with any article or articles for exportation; and that no vessel coming into any of the aforesaid districts from any port or place without this commonwealth, or going from hence to any port or place without the same, except as before is excepted and provided for, shall be Exemption as to vessels of United States.

permitted to break bulk or unlade or lade on board any goods, wares, or merchandize whatsoever, at any other port or place within the said districts nor until a permit for that purpose be obtained, and all lawful duties, tonnage or imposts, paid or secured to be paid as the law shall direct; and moreover the said vessels and the goods, wares, or merchandise laden therein, and the masters, owners, and crews thereof, shall be subject to, and shall do and perform all manner of regulations and things established or to be established or required by law at the aforesaid ports of delivery. Any master or owner of any vessel aforesaid, or any owner, importer, or exporter, of any goods, wares, or merchandise aforesaid, wilfully neglecting or refusing to comply with this act, shall forfeit the vessel or goods, wares, and merchandise, as the case may be; one half to the commonwealth, and the other half to the informer, to be recovered by information in the court of admiralty,

River and bay
craft to be re-
gistered.

V. *And be, it further enacted*, That all persons owning any river or bay craft, except vessels employed as ferry boats, shall register the same with the clerk of the court of the county or corporation in which such owner may reside, together with the name of skipper thereof, and the number of men employed therein, not more than one half of whom shall be slaves; and shall obtain a copy of such register from the clerk of the county aforesaid; and every owner, master or skipper of such river or bay craft when employed by the owner or master of any vessel at the ports aforesaid, shall deliver to such owner or master employing the same, if demanded, a certified copy of the said register under his hand, and shall be answerable for the safe keeping and delivery of all goods, wares, and merchandise, received on board such river or bay craft, damage from winds and weather excepted, according to the order of the person shipping the same on board thereof; and for default therein, shall forfeit and pay the full value of such goods, wares, and merchandise, with damages to the party grieved. And if any owner or master of any vessel at the ports aforesaid, shall employ any river or bay craft, not having such register, it shall be at the risque of the party employing the same; and the owner or skipper of such river or bay craft, not having such register, or not conforming thereto in manning the

same when in service, shall forfeit and pay the sum of ten pounds, recoverable by information in any court of record within this commonwealth; one half to the informer, and the other half to the commonwealth aforesaid. If any person, not being a citizen of this commonwealth, or some one of the United States, and resident therein for the term of five years, be owner or part owner of any vessel employed as river or bay craft, such vessel shall be forfeited, together with her rigging, tackle, apparel and furniture; one half to the informer, and the other half to the use of the commonwealth, recoverable in the court of admiralty.

VI. *Provided nevertheless*, That nothing contained in this act, shall be construed so as to extend to the navigation of any river in this commonwealth above tide water, or to prevent the owner of any boat or flat from transporting any article of his own growth or manufacture therein. Not to extend to rivers above tide water.

VII. *And be it further enacted*, That the district of South-Quay shall be a separate district as heretofore established; and that the executive be, and they are hereby authorised to appoint a naval officer for the same, who shall keep his office at the port of South Quay, and shall be entitled to a salary of forty pounds per annum, with a like commission on the duties paid or secured to be paid to him, with the other naval officers. District of South Quay.

VIII. *And be it further enacted*, That so much of all and every other act and acts of assembly, as comes within the purview of this act, shall be and the same is hereby repealed.

CHAP. XLIII.

An act to amend and condense into one act, the several laws for appropriating the public revenue.

I. WHEREAS it hath become necessary to amend the laws for appropriating the public revenue, and to condense the several appropriations thereof into one act: Appropriation of public revenue.

Of property
tax.

II. *Be it enacted by the General Assembly, That* the money arising from the tax on free male tithables and taxable property, the tax on wheels only excepted, shall as heretofore, form a general fund; ten thousand pounds of the amount of which shall be at the disposal of the executive, to defray the contingent charges of government; and one thousand pounds shall be subject to the votes of the general assembly, as the public exigencies may require: From the taxes forming the said funds, shall be paid by the sheriffs, according to an act, intituled "An act to amend an act, intituled an act concerning pensioners," the pensions due to wounded or disabled officers and soldiers: From the said fund shall also be paid in the next instance, the salaries due to the officers of civil government, including the salaries to the naval officers, and the allowances made by the executive to the searchers: All warrants heretofore drawn, or which may hereafter be drawn, for the payment of money lent the public on the requisition of the general assembly, in the session held in May, one thousand seven hundred and eighty, or of Thomas Jefferson, esquire, then governor of this commonwealth, shall also be paid out of the said fund: The interest arising on the loan-office debt registered in the auditor's office on or before the first day of May, one thousand seven hundred and eighty-five, shall also be made good out of the said fund, warrants for such interest being annually issued agreeably to law: All arrearages due to military pensioners, and all warrants heretofore drawn on the general, military, or contingent funds, shall be made good out of the said fund: And all sums of money voted by the general assembly during the present session, and not otherwise provided for, and all former votes not otherwise provided for, shall be made good out of the said general fund:—The said fund shall also be chargeable with the warrants heretofore issued, and which may hereafter be issued to venire-men and witnesses for their attendance on criminal prosecutions, and to apprehenders of horse stealers.

On land tax.

III. *And be it enacted, That* the money arising from the tax of one and a half per centum on lands and unimproved lots, shall be applied as follows: One tenth part thereof shall be applied to the redemption of the paper money funded conformably to the recommendation of congress, of the eighteenth of March, one thou-

sand seven hundred and eighty: The interest arising on the paper money of this state, funded at the rate of one thousand pounds paper for one pound specie, shall also be made good out of the said tax; and all the rest of the money, arising from lands and unimproved lots, and all the money arising from one half of the slave tax, shall be paid in discharge of this state's quota of the requisition of congress, of the second of August, one thousand seven hundred and eighty-six, amounting to two hundred and seventy four thousand seven hundred and seven dollars indents, and three hundred and seventy one thousand one hundred and thirty-six dollars specie, after compleating the payment of the requisition of congress, of September the twenty seventh, one thousand seven hundred and eighty-five: *Provided*, That if the amount of the aforesaid indents in the hands of the treasurer, shall on the first day of July next, fall short of the aforesaid sum of two hundred and seventy-four thousand seven hundred and seven dollars, the deficiency shall be paid by the treasurer in Spanish milled dollars, or other silver or gold coin equivalent thereto.

IV. *And be it further enacted*, That all the money Of new taxes. arising under the act, intituled "An act imposing new taxes," which shall be specie only, shall be applied in aid of the funds hereby appropriated to the payment of the requisition of congress of the second of August, one thousand seven hundred and eighty six, except so much of the tax upon improved lots as arises within the borough of Norfolk, which shall be applied annually to the payment of the debt due from the public to the said borough, for public buildings belonging to the said borough destroyed by order of convention, until the value of them shall be fully paid. And whereas, in the present emergency of affairs, it is necessary to make the most ample provision for the punctual and speedy discharge of the said requisition;

V. *Be it therefore enacted*, That in case the funds hereby appropriated to that purpose shall prove deficient, such deficiency shall be supplied by the general fund; and if there shall be any surplus in the said funds, such surplus shall be applied in aid of the general fund. If funds deficient.

VI. *And be it further enacted*, That the treasurer Treasurer to of this commonwealth shall transmit to the board of transmit

monthly
statements of
payments to
U. States.

treasury of the United States, once in every month, a state of all sums paid by him on account of the United States to their commissioner of the loan-office, or to such other person or persons as may be duly authorised to receive the same, expressing the dates and amounts of the respective payments, and distinguishing the sums paid in actual money, from those paid in indents. And whereas congress have directed every commissioner of the continental loan-office, previously to settling and issuing certificates as aforesaid for the interest due on certificates of liquidated debts, other than loan-office certificates, to administer an oath or affirmation, or require a certificate by one of the persons whom the state in which the commissioner resides, shall in the legislative act complying with the requisition aforesaid of the second of August, one thousand seven hundred and eighty-six, appoint, that he has administered to the owner or possessor of every such certificate an oath or affirmation, that the same is bona fide the property of the particular state in which the said commissioner resides; or of a citizen or citizens of the said state; or of some corporate body or charitable institution within the same; or of some person who is not a citizen of any of the United States; describing the certificates alluded to in every such oath or information, in such manner as shall be necessary to indentify the same, and it becomes therefore necessary to authorise certain persons to administer such oath or affirmation in this state:

Justices authorised to administer oaths in relation to United States' certificates.

VII. *Be it therefore enacted*, That every justice of the peace within this commonwealth, shall be, and is hereby authorised and empowered, to administer such oath or affirmation, and to give a certificate thereof according to a form which the commissioner of the continental loan-office in this state shall prescribe, and publish six weeks successively in the public newspapers of this state.

One third of taxes payable in U. States' certificates.

VIII. *And be it further enacted*, That every person chargeable with the revenue tax, for one thousand seven hundred and eighty-six, under the act "To amend and reduce the several acts for ascertaining certain taxes and duties, and for establishing a permanent revenue, into one act, may pay, as heretofore, one third part of such taxes in certificates granted by the commissioner of continental loans in any of the United

States for the interest due upon the loan-office certificates, or upon other certificates of the liquidated debts of the United States; and every sheriff or collector upon payment thereof into the public treasury, shall be allowed a discount for all such interest certificates so by him collected. *Provided always*, That the amount thereof shall not exceed one third part of the taxes by him collected.

IX. *And be it further enacted*, That one half the money arising from the tax on slaves shall, as heretofore, be applied to the payment of the interest due on the certificates issued to the army and navy of this state for their arrears of pay and depreciation. The duty of four shillings per hogshead on tobacco exported shall also, as heretofore, be applied in aid of the said half of the slave tax; and the duties on enumerated articles shall, as heretofore, be appropriated to the same purposes, and the money paid into the fund hereby established for the payment of the interest on the military debt, in the course of the year one thousand seven hundred and eighty seven, shall be subject to the discharge of all warrants heretofore issued, or which may be issued in the course of the said year, for interest on the said debt. And whereas the situation of public affairs renders it impracticable to pay any part of the principal of the certificates granted to the army and navy for their arrears of pay and depreciation, and it is judged absolutely necessary for the support of public credit that the fullest assurance should be given for the punctual payment of the interest of those certificates;

Appropriation of slave tax, and duties on tobacco and goods.

X. *Be it therefore enacted*, That if the money arising from half the slave tax for the year one thousand seven hundred and eighty six, which was distrainable for on the first day of January, one thousand seven hundred and eighty seven, and from the duty of four shillings per hogshead on tobacco exported, and the duties above appropriated in aid of the said tax and duty, shall prove inadequate to the payment of such interest, such deficiency shall be supplied out of the general fund; and if there should be any surplus arising in the said fund, over and above the payment of the warrants heretofore issued, or which may hereafter issue in the course of the year one thousand seven hundred and eighty seven, for the said interest, all such

Interest on certificates to be paid.

surplus shall be applied in aid of the general fund; which interest warrants on military certificates shall be receivable in all taxes whatsoever, except the taxes on law process. And whereas ten thousand pounds have been applied to the purchase of arms and ammunition, agreeably to an act, intituled "An act for the purchase of arms and ammunition for the defence of the state," passed in October, one thousand seven hundred and eighty four, to the reimbursement of which the money arising from the land office hath been heretofore appropriated;

Revenue of
land office
appropriated.

XI. *Be it enacted*, That the money arising from the said office, after reimbursing the said ten thousand pounds, shall be applied in aid of the general fund.

Of law pro-
cess.

XII. *And be it further enacted*, That the tax on law process and alienations shall be appropriated, as heretofore, to the payment of the debts due from this state to foreign creditors, together with the two and an half per centum on merchandise imported, until the warrants for eighty thousand pounds directed to be issued in favor of the said creditors, by the act passed at the last session of assembly, intituled "An act to amend the act, intituled an act to amend and reduce the several acts of assembly for appropriating the public revenue, into one act," shall be compleatly redeemed: And in further aid of this fund, shall be applied the balance which may yet be due on account of the sale of the Gosport lands.

Appropriation of reve-
nue boats.

XIII. *And be it further enacted*, That two thousand pounds, arising from the tonnage on vessels, shall be appropriated to defraying the charges of the boats Liberty and Patriot, under the direction of the executive; and the surplus thereof, after making good the votes of the present session, applied in aid of the general fund.

XIV. *And be it further enacted*, That the treasurer be authorised and directed to make good, as heretofore, the subscription to the Potowmack and James river companies on behalf of the state, as the several dividends may be applied for from time to time, by the president and directors of the said companies, out of the surplus of any public monies arising under the several laws for the inspection of tobacco; and after de-

fraying this charge, shall be applied in aid of the general fund.

XV. *And be it further enacted*, That a sum not exceeding six hundred pounds out of the contingent fund, shall be set apart for the purposes of the public hospital in the city of Williamsburg, upon warrants from the auditor under order of the executive, on application of the board of directors. Lunatic hospital.

XVI. *And be it further enacted*, That the additional duty of two per centum ad valorem, imposed by an act of this present assembly, shall be applied in the following manner: In the first instance to the defraying the expences of the delegates representing this state in congress, and in the next place, to the payment of the six thousand pounds voted by the general assembly towards the compleating of the capitol in the city of Richmond; and the surplus, if any, shall be applied in aid of the funds appropriated to the payment of the requisition of congress, of the second of August, one thousand seven hundred and eighty-six. Ad valorem duties appropriated.

XVII. *And be it enacted*, That all arrearages of the taxes of former years shall be applied according to the laws appropriating the same; any thing in this act to the contrary notwithstanding. Arrearages of taxes.

XVIII. *And be it further enacted*, That all monies not specially appropriated by this act, shall be applied in aid of the general fund. General fund.

XIX. *And be it further enacted*, That the executive be empowered and required, to direct the treasurer in the mode of selling the tobacco paid for taxes, under an act, intituled "An act to enable the citizens of this commonwealth to discharge certain taxes by the payment of tobacco."

CHAP. XLIV.

An act to revive the act for calling in and funding the paper money of this state. ✓

BE it enacted, That the act of assembly, intituled "An act for calling in and funding the paper money," Act for calling in paper money revived.

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of this state," which hath expired, shall be, and the same is hereby revived; and shall continue and be in force from and after the passing of this act, for and during the term of fifteen months. *Provided always,* That nothing herein contained shall extend to so much of the aforesaid act, as respects the purchase of warrants for unappropriated lands.

Not to purchase land warrants.

CHAP. XLV.

An act for putting into immediate operation An act intituled an act empowering one of the privy council to officiate in certain cases as lieutenant governor.

Act empowering one of the privy council to officiate as lieutenant governor, to go in to immediate operation.

BE it enacted, That the act intituled "An act empowering one of the privy council to officiate in certain cases as lieutenant governor," the operation whereof is suspended until the first day of January next, shall commence and be in force from and after the passing of this act.

CHAP. XLVI.

[Altered from Rev. Bills of 1779, ch. LXVI.]

An act concerning treasons, felonies, and other offences committed out of the jurisdiction of this commonwealth.

Crimes committed out of jurisdiction of this commonwealth, where tried.

BE it enacted, That all high treasons, misprisions, and concealments of high treasons and other offences, except piracies and felonies on the high seas, committed by any citizen of this commonwealth, in any place

out of the jurisdiction of the courts of common law in this commonwealth, and all felonies committed by citizen against citizen in any such place, other than the high seas, shall be enquired, heard, determined, and judged by the general court, in the same manner as if the said offences had been committed within the body of a county; and such as shall be convict of any such offence shall suffer such pains, losses of lands, goods and chattels, as if they had been attainted and convicted of such offence done within the body of a county.

CHAP. XLVII.

An act to encourage the apprehending of horse stealers.

From Rev.
Bills of 1779,
ch. LXIX.

BE it enacted by the General ssembly, That whosoever shall apprehend one charged with horse-stealing, if the prisoner be convicted of that crime, shall be entitled to a reward of ten pounds to be paid by the treasurer upon a certificate of the general court, that the claimant was the apprehender, and either that he was not examined as a witness at the trial, or that the other evidence then given was sufficient, without his testimony, to convict the prisoner.

Reward for
apprehend-
ing horse
stealers.

CHAP. XLVIII.

An act for the suppression and punishment of riots, routs, and unlawful assemblies.

From Rev.
Bills of 1779.
ch. LXXI.

BE it enacted by the General Assembly, That if any riot, assembly, or rout of people against the law, be

Riots, routs,
and unlawful
assemblies,

how suppressed & punished.

made in any part of the commonwealth, the justices of peace, three, or two of them at the least, and the sheriff or under sheriff of the county, or serjeant of a corporation, as the case may be, where such riot, assembly, or rout shall be made, shall come with the power of the county (if need be) to arrest them, and shall arrest them; and the same justices and sheriff, under sheriff, or serjeant, shall have power to record that which they shall find so done in their presence against the law, by which record such trespassers and offenders shall be convict, and shall be taken and put in the jail of the same county or corporation, there to abide for so long time as shall be limited by a jury to be sworn by the judges for that purpose, and further until they shall have paid such amercement as the same jury shall assess; and if it happen that such trespassers and offenders be departed before the coming of the said justices and sheriff, under sheriff, or serjeant, the same justices, three, or two of them, shall diligently enquire within a month after such riot, assembly, or rout of people so made, and thereof shall hear and determine according to law; and for this purpose, the sheriff or serjeant having a precept directed to him, shall return twenty-four fit persons, twelve of whom having been sworn, shall enquire of the said riot, rout, or unlawful assembly, and award against those whom they shall find guilty thereof, due pains, by amercement and imprisonment, as is before directed; and if so many of them should not appear, those who make default, shall be fined by the same justices, five pounds each; and if the default be in the sheriff, under sheriff, or serjeant, he shall forfeit to the commonwealth twenty pounds; and if the said riot, rout, or unlawful assembly, be not found by the said jury, by reason of any maintenance, embracery, partiality, or other misbehaviour of the said jurors, then the said justices, and the sheriff, under sheriff, or serjeant, shall certify the whole matter and circumstances to the general court, and also the names of the maintainers and embracers in that behalf, if any be, with their misdemeanours that they know, in order that they may be duly prosecuted; upon pain of every of the said justices and sheriff, under sheriff, or serjeant, to forfeit twenty pounds, if they have no reasonable excuse for not certifying the same, which certificate shall be of like force as the presentment of a grand jury;

and thereupon the said trespassers and offenders being put to answer, they which shall be found guilty, shall be punished by imprisonment and amercement, according to the discretion of a jury, as is before directed; and if the same trespassers do not appear before the general court at the first precept, then shall another precept be directed to the sheriff of the county, to take the said trespassers and offenders, if they may be found, and to bring them at a certain day before the general court; and if they cannot be found, the sheriff, under sheriff, or serjeant, shall make proclamation in his full county or corporation, next ensuing the delivery of the second precept, that they shall appear before the general court on a day named; and in case; the same offenders come not as afore is said, and the proclamation made and returned, they shall be convict and attainted of the riot, assembly, or rout aforesaid: And moreover the justices of the peace in every county or corporation, where such riot, assembly, or rout of people shall be made, in case the same be made in their presence, or if none be present, then the justices having notice thereof, together with the sheriff, under sheriff, or serjeant, of the same county or corporation, shall do execution of this act, every one upon pain of twenty pounds, to be paid to the commonwealth, as often as they shall be found in default of the execution of the said act; and on such default of the justices and sheriff, under sheriff, or serjeant, a commission shall go from the general court at the instance of the party grieved, to enquire as well of the truth of the case, and of the original matter for the party complainant, as of the default or defaults of the said justices, sheriff, under sheriff, or serjeant, in this behalf supposed, to be directed to sufficient and indifferent persons at the nomination of the judges; and the said commissioners presently shall return into the general court the inquests and matters before them in this behalf taken and found: But no persons convicted of a riot, rout, and unlawful assembly, shall be imprisoned for such offence by a longer space of time than one year. Persons legally convicted of a riot, rout, or unlawful assembly, otherwise than in the manner directed by this act, shall be punished by imprisonment and amercement, at the discretion of a jury, under the like limitation.

From Rev.
Bills of 1779,
ch. LXXII.

CHAP. XLIX.

*An act forbidding and punishing af-
frays.*

Affrays, how
punished.

BE it enacted by the General Assembly, That no man, great nor small, of what condition soever he be, except the ministers of justice in executing the precepts of the courts of justice, or in executing of their office, and such as be in their company assisting them, be so hardy to come before the justices of any court, or either of their ministers of justice, doing their office, with force and arms, on pain, to forfeit their armour to the commonwealth, and their bodies to prison, at the pleasure of a court; nor go nor ride armed by night nor by day, in fairs or markets, or in other places, in terror of the county, upon pain of being arrested and committed to prison by any justice on his own view, or proof by others, there to abide for so long a time as a jury, to be sworn for that purpose by the said justice, shall direct, and in like manner to forfeit his armour to the commonwealth; but no person shall be imprisoned for such offence by a longer space of time than one month.



From Rev.
Bills of 1779,
ch. LXXIII.

CHAP. L.

An act against Conspirators.

Conspirators
defined and
punished.

BE it declared and enacted by the General Assembly, That conspirators be they that do confederate and bind themselves by oath, covenant, or other alliance, that every of them shall aid and bear the other falsely and maliciously to move or cause to be moved any enticement or information against another on the part of the commonwealth, and those who are convicted thereof at the suit of the commonwealth, shall be punished by imprisonment and amercement, at the discretion of a jury.

CHAP. LI.

From Rev.
Bills of 1779,
ch. LXXIV.

*An act against conveying or taking
pretensed titles.*

BE it enacted by the General Assembly, That no person shall convey or take, or bargain to convey or take, any pretensed title to any lands or tenements, unless the person conveying or bargaining to convey, or those under whom he claims shall have been in possession of the same, or of the reversion or remainder thereof one whole year next before; and he who offendeth herein knowingly, shall forfeit the whole value of the lands or tenements; the one moiety to the commonwealth, and the other to him who will sue as well for himself as for the commonwealth: But any person lawfully possessed of lands or tenements, or of the reversion or remainder thereof, may nevertheless take or bargain to take the pretensed title of any other person, so far and so far only as it may confirm his former estate.

Penalty for
conveying or
taking pre-
tensed titles.

CHAP. LII.

From Rev.
Bills of 1779,
ch. LXXV.

*An act to punish bribery and extor-
tion.*

BE it enacted by the General Assembly, That no treasurer, keeper of any public seal, councillor of state, counsel for the commonwealth, judge, or attorneys at law, practising either in the general court, high court of chancery, court of appeals, court of admiralty, or inferior courts, clerk of the peace, sheriff, coroner, escheator, nor any officer of the commonwealth, shall, in time to come, take, in any form, any manner of gift, brokerage, or reward for doing his office, other than is, or shall be allowed by some act of general assembly, passed after the institution of the commonwealth, that is to say, after the fifteenth day of May,

Bribery and
extortion,
how punish-
ed.

[This act was
erroneously
printed in the
original. See
1788, ch. 83.]

in the year of our Lord, one thousand seven hundred and seventy six; and he that doth, shall pay unto the party grieved, the treble value of that he hath received, shall be amerced and imprisoned at the discretion of a jury, and shall be discharged from his office forever; and he who will sue in the said matter, shall have suit as well for the commonwealth as for himself, and the third part of the amercement.

CHAP. LIII.

From Rev.
Bills of 1779,
ch. LXXVI.

An act prescribing the punishment of those who sell unwholesome meat or drink.

Punishment of those who sell unwholesome meat or drink. *BE it enacted by the General Assembly, That a butcher or other person that selleth the flesh of any animal dying otherwise than by slaughter, or slaughtered when diseased, or a baker, brewer, distiller, or other person, who selleth unwholesome bread or drink, shall, on conviction by the verdict of a jury, the first time be amerced; the second time he shall suffer judgment of the pillory; and the third time he shall be imprisoned and make fine; and every time after he shall be adjudged to hard labour six months in the public works.*

CHAP. LIV.

From Rev.
Bills of 1779,
ch. LXXXIV.

An act for punishing disturbers of Religious Worship and Sabbath breakers.

Disturbers of religious worship and sabbath break. *BE it enacted by the General Assembly, That no officer for any civil cause shall arrest any minister of religion licensed according to the rules of his sect, and*

who shall have taken the oath or affirmation of fidelity to the commonwealth, while such minister shall be publicly preaching or performing religious worship in any church, chapel, meeting house, or other place of religious worship, on pain of imprisonment and amercement, at the discretion of a jury, and of making satisfaction to the party so arrested. And if any person shall on purpose maliciously or contemptuously disturb or disturb any congregation assembled in any church, chapel, meeting house, or other place of religious worship, or misuse any such minister being there, he may be put under restraint during religious worship, by any justice present, which justice, if present, or if none present, then any justice, before whom proof of the offence shall be made, may cause the offender to find two securities, to be bound by recognizance in a sufficient penalty for his good behaviour, and in default thereof shall commit him to prison, there to remain till the next court to be held for the same county; and upon conviction of the said offence before the said court, he shall be further punished by imprisonment and amercement, at the discretion of a jury. If any person on the sabbath day shall himself be found labouring at his own, or any other trade or calling, or shall employ his apprentices, servants or slaves in labour or other business, except it be in the ordinary household offices of daily necessity, or other work of necessity or charity, he shall forfeit the sum of ten shillings for every such offence; deeming every apprentice, servant, or slave so employed, and every day he shall be so employed as constituting a distinct offence.

CHAP. LV.

An act against Usury.

From Rev.
Bills of 1779,
c. LXXXVII.

BE it enacted by the General Assembly, That no person shall hereafter, upon any contract, take directly or indirectly, for loan of any money, wares, or merchandise, or other commodity, above the value of

Usury, what.

five pounds, for the forbearance of one hundred pounds for a year, and after that rate for a greater or lesser sum, or for a longer or shorter time; and all bonds, contracts, covenants, conveyances, or assurances hereafter to be made, for payment or delivery of any money, or goods, so to be lent, on which a higher interest is reserved or taken, than is hereby allowed, shall be utterly void. If any person shall, by any way or means of any corrupt bargain, loan, exchange, shift, covin, device, or deceit, take, accept or receive, for the loan of, or giving day of payment for money, wares, merchandise, or other commodity, above the rate of five pounds for one hundred pounds for one year, every person so offending, shall forfeit double the value of the money, wares, merchandise, or commodity so lent, exchanged, or shifted; one moiety to the use of the commonwealth, and the other to the informer, to be recovered with costs. Any borrower of money, or goods, may exhibit a bill in chancery against the lender, and compel him to discover upon oath, the money or thing really lent; and all bargains, contracts, or shifts which shall have passed between them, relative to such loan, or the repayment thereof, and the interest or consideration for the same; and if thereupon, it shall appear, that more than lawful interest was reserved, the lender shall be obliged to accept his principal money, without any interest, or other consideration, and pay costs, but shall be discharged of all other penalties of this act. Every broker, solicitor, or driver of bargains, who shall hereafter directly or indirectly, take or receive more than the rate or value of five shillings, for brokerage, or soliciting the loan or forbearance of one hundred pounds for a year, or above one shilling for making or receiving the bond or bill, for such loan or forbearance, or for any counter-bond or bill, concerning the same, shall forfeit for every offence, twenty pounds to the commonwealth and informer, to be recovered and divided, as herein before is mentioned.

Effect of, and
remedy.

Rate of legal
interest.

Brokerage.

CHAP. LVI.

From Rev.
Bills of 1779,
ch. XCVII.

*An act for licensing counsel attornies
at law and proctors.*

BE it enacted by the General Assembly, That no person, except the attorney general, shall be permitted by any court to practice therein as a counsel, attorney at law, or proctor, unless he shall heretofore have obtained a license, in the manner prescribed by the law then in force, or until he shall obtain a license in writing from three of those, who shall be at that time, judges of the high court of chancery, or general court; which license, if he produce to them a certificate from the court of that county wherein his usual abode shall have been during twelve months next preceding, that he is a person of honest demeanor, such three judges are empowered and required to grant, under their hands and seals, if, after examination, it be their opinion, that he is duly qualified. Every counsel, attorney, and proctor, before he shall practice, shall in some court of record, give assurance of fidelity to the commonwealth, and moreover in such court, if he shall thereafter obtain a license, shall take the oath following: "I do swear that I will honestly demean myself in the practice of a counsel, attorney, or proctor, and will execute my office according to the best of my knowledge and ability." A person, who shall have been convicted of treason, felony, forgery, or wilful and corrupt perjury, shall not be suffered to practice in any court, as a counsel, attorney, or proctor. If the general court, from their own observation, detect any mal-practice in a counsel, or attorney of that court, or if a complaint in writing be made to them, of such mal-practice in the said court, or in the court of a county, city, or borough, the party accused shall be summoned to shew cause why an information should not be filed against him; and if such information be ordered, and he be found guilty, of the matter therein charged, the said general court may either suspend his license, during a certain time, or vacate it altogether, as they shall think him to have deserved. And the high court of chancery and court of admiralty,

Counsel, attornies at law and proctors, how licensed.

Oath of.

How suspended for mal-practice.

upon the like detection or complaint of mal-practice in those courts respectively, shall proceed in the same manner against a counsel, attorney, or proctor, and may inflict the same punishment upon the offender.— No counsel, or attorney at law, practising in a court of a county, city, or borough, shall be permitted by the judges, to practice the same profession in the high court of chancery or general court.

CHAP. LVII.

From Rev.
Bills of 1779,
ch. CIII.

An act directing the method of proceeding against and trying free persons charged with certain crimes.

Criminals, proceedings against.

Called court, or court of examination.

Offence committed in another county.

I. *BE it enacted by the General Assembly, That any free person brought before a justice of the peace of a county or corporation, and by the testimony of another free person, charged with treason or felony, done in such county or corporation, shall be committed to jail by warrant of such justice, who shall, by his precept, order the sheriff to summon the other justices to meet in the court house, at an appointed time, not more than ten, nor less than five days after the commitment; and shall take the recognizance of witnesses to appear before the said justices, at that time and place. If the offence shall have been done in another county, the justice shall, by his warrant, cause the prisoner to be put into the custody of a sheriff, to be by him conveyed to the county or corporation where the offence was committed; every one of which sheriffs whilst he shall officiate in execution of this act, may impress so many men, horses, and boats, as shall be necessary for the safeguard and conveyance of the prisoner, into such other county, and there brought before some justice thereof, who shall proceed in like manner, as if the offender had been brought before him in the first instance; and the sheriff who shall be charged with the removal of a criminal from one county to another, shall be allowed*

the same fee per mile for such service as is allowed to sheriffs for removing criminals from a county to the public jail, to be levied and paid by the county wherein the service was performed, and repaid by the public. The justices so convened shall be attended by the clerk of the peace, and any four or more of them, who will act, having examined the witnesses, as well for, as against the prisoner, in his presence, for summoning which witnesses, on behalf of the prisoner, subpoenas shall be delivered to him or any other for him desiring them, by the clerk of the peace, and heard his defence, if, in their opinion, the evidence be not sufficient to convict him, shall enlarge him. If it seem to them that the evidence is sufficient to convict the prisoner, but that the offence is cognizable by the court of the county, they shall take the recognizance of the prisoner with surety, in such sum as they think proper to appear before such court at the next session, in which there will be a grand jury for the same county, or, if he do not give such surety, shall remand him to jail, there to remain until such session, or until he shall enter into the recognizance with surety, before any one of the said justices, who shall return it to the clerk of the peace. If they shall think the offence cognizable by the general court only, remanding the prisoner to jail, from whence he shall by mittimus of two of them be removed by the sheriff to the public jail, and delivered to the keeper thereof, or, if they think him bailable, admitting him to bail, the justices shall take the recognizance of the witnesses to appear before the general court, on the first day of the next term, and causing the examinations of the witnesses to be taken in writing, shall order them, together with the recognizances, both of the prisoner, if there be any, and of the witnesses, to be transmitted by the clerk of the peace, to the clerk of the general court; and the two justices, who give the mittimus, when there shall be one, may, by their warrant, empower the sheriff to impress so many men, horses, and boats, in all places he shall pass through, as shall be necessary for the safeguard and conveyance of the prisoner, to which warrant all persons shall yield obedience, and in execution whereof the officer shall proceed, as the law directs, in other cases, wherein impressments are authorised. If the justices shall be of opinion, that the prisoner may be bailed, and shall en-

Number and
power of ex-
amining court

Criminal sent
or further
trial.

Bail.

ter that opinion in their proceedings, and also the sums of money in which he and his bail ought to be bound, he may be bailed either by them, or by any justice of the same county, or by any judge of the general court, who shall transmit the recognizance to the clerk of the general court, and give a warrant for the deliverance of the prisoner, and the warrant being put into the hands of the officer in whose custody the prisoner shall be, he shall thereupon be delivered, if he be detained for no other cause. Any two judges of the general court, when it is not sitting, may admit to bail a prisoner, whom they shall think entitled thereto and grant a warrant for his deliverance, notwithstanding the justices, before whom the examination was, shall have been of a different opinion. When the justices shall have determined that a prisoner ought to be tried for an offence in the general court, the clerk of the peace shall issue a writ of *venire facias*, to be directed to the sheriff, commanding him to cause twelve good and lawful men, freeholders of his county, of the neighbourhood of the place where the fact shall have been committed, to come before the justices of the general court, at the time the witnesses shall be bound to appear there, which writ shall be executed by the said sheriff and the freeholders summoned by virtue thereof, or such of them as appear and be not challenged together with so many other good and lawful men of the bystanders being freeholders within this commonwealth, as will make the number twelve, or, if the whole array be challenged, twelve of such bystanders shall be a lawful jury for the trial of the prisoner. After any man shall be indicted of treason or felony, if he be not already in custody, the sheriff shall be commanded to attach his body, by writ, or by precept, which is called a *capias*, and if he return that the body is not found, another writ or precept of *capias* shall be immediately made, returnable forthwith, in which the sheriff shall be also commanded to seize his chattels, and safely to keep them; and if he return that the body is not found, and the indictée cometh not, an exigent shall be awarded and the chattels shall be forfeited, but if he come and yield himself, or he be taken, before the return of the fourth *capias*, the goods and chattels shall be saved. And in all trials for such offences, the prisoner shall have a copy of the indictment, and of the

Venire facias.

Capias.

panel of the jurors who are to try him, whensoever he shall require it before trial or sentence. And when any of the panel shall be challenged by the attorney for the commonwealth, he shall assign the cause of his challenge, which shall be enquired of according to law. When the grand jury shall have presented to the general court, any bill of indictment against one charged with treason or felony, the court shall cause the offender, if he be not forthcoming immediately, or so soon as may be, to be arraigned and tried the same term, unless they see good cause to adjourn the trial to the next, and shall allow him counsel to assist him at his trial, if he desire it. When any prisoner, committed for treason or felony, and applying to the general court by petition or motion, the first day of the term, shall desire to be brought to his trial before the end thereof, and shall not be indicted in that term, unless it appear by affidavit that the witnesses against him cannot be produced in time; the court shall set him at liberty, upon his giving bail in such penalty as they shall think reasonable, to appear before them at a day to be appointed of the succeeding term, and he and every other person charged with such crime, who shall not be indicted before or at the second term after he shall have been committed, unless the attendance of the witnesses against him appears to have been prevented by himself, shall be discharged from his imprisonment, if he be detained for that cause only; and if he be not tried at or before the third term after his examination before the justices, shall be forever discharged of the crime. The clerk of the peace, when the justices of his county shall have determined that a prisoner ought to be tried in the general court, shall deliver subpoenas for summoning his witnesses, to him or any person on his behalf, requiring them, returnable at the same time as the witnesses for the commonwealth shall be bound to appear, which subpoenas, the officers, to whom they shall be directed, shall obey; and the clerk of the general court shall cause subpoenas for the same purpose, and at the like request, to be delivered to the prisoner, or his agent, and the witnesses for the prisoner shall be examined upon oath, in the same manner as other witnesses. The keeper of the public jail, by warrant of any two justices of his county, may impress so many men to attend him for the safeguard of prisoners in

Copy of indictment and panel.

Challenge

Trial, counsel

Bail, if not tried.

Witness for prisoner.

Guards.

Present-
ments, how
tried.

his custody, and during such time as shall be mentioned in the warrant, so as no one of them be compelled to attend more than one day in a week, the charge whereof shall be defrayed by the public. In a presentment to the county court, if the penalty of the offence exceed not thirty shillings, or three hundred pounds of tobacco, or to the general court if the penalty exceed not five pounds of current money, or one thousand pounds of tobacco, no information thereupon shall be filed, but a summons shall be issued against the defendant to answer the presentment, and such summons having been served upon him, or a copy thereof having been left at the place of his usual abode, where the prosecution shall be in the county court, at least ten days before the return day, if he do not appear, judgment shall be entered against him for the penalty, and if he do appear, the court shall in a summary way, without a jury, hear and determine the matter of the presentment, in the form in which it shall have been made, and give judgment thereupon according to law and the very right of the cause, disregarding any exception that may or might be taken to the form of the presentment. Execution of a sentence of death shall not be done in less than thirty days after judgment shall have been given against the prisoner.

Criminal
charges, how
paid.

All such expences as shall be incurred by the apprehension, commitment, examination, and removal of offenders, triable in the general court only, shall be defrayed by the county wherein the matter shall have been transacted, and reimbursed by the public. The clerk of the general court shall enter in books, to be kept for that purpose, the names of jurors attending for the trials of prisoners, and the names of witnesses, appearing on behalf of the commonwealth, against them, with accounts of the days they shall have attended, and certify such entries to the board of auditors.

CHAP. LVIII.

From Rev.
Bills of 1779,
ch. CIV.

*An act directing the method of trying
Slaves charged with treason or fe-
lony.*

I. *BE it enacted by the General Assembly, That* the justices of every county shall be justices of oyer and terminer for trying slaves charged with treason or felony: Which trials shall be by five at the least without juries upon legal evidence at such times as the sheriffs shall appoint, not being less than five nor more than ten days after the offenders shall have been committed to jail. No slave shall be condemned in any such case unless all of the justices sitting upon his or her trial shall agree in opinion that the prisoner is guilty. *Provided always, That* when judgment of death shall be passed upon any such offender there shall be thirty days at least between the time of passing judgment and the day of execution, except in cases of conspiracy, insurrection, or rebellion. The value of a slave condemned to die, who shall suffer accordingly, or before execution of the sentence perish, to be estimated by the justices triers, shall be paid by the public to the owner. One being detained in slavery, and having commenced an action to assert his freedom, shall be prosecuted and tried for any such crime in the same manner as a free man ought to be prosecuted and tried. No person having interest in a slave shall sit upon the trial of such slave.

Court for trial of slaves.

Must be unanimous, to convict.

Time between sentence and execution.

Value, how estimated and paid.

Slave suing for freedom, how tried.

Who may sit on trial.

CHAP. LIX.

From Rev.
Bills of 1779,
ch. CV.

*An act for reforming the method of
proceeding in writs of right.*

I. *BE it enacted by the General Assembly, That* for trial of disputed titles to lands in a more simple mode than that which hath most commonly been used

Writs of right mode of proceeding in.

of late, the claimant or demandant of an estate in fee simple may sue forth against the possessor or tenant a writ of *præcipe quad reddat*; which issuing from the general court shall be in this form or to this effect:—

Præcipe.

"The commonwealth of Virginia to the sheriff of E,
greeting, command C. D. that he justly and without
delay, render unto A. B. **tenement contain-**

ing of land, with the appurtenances in the county of E, which he claimeth to be his right, and whereof he complaineth that the aforesaid C. D. doth withhold the possession. And unless he shall do so, then summon the said C. D. that he appear before the justices of our general court at _____ on the day of the next court, to shew wherefore he hath not done it. And have you then there this writ. Witness _____

chief justice of our said court at

the day of _____ in the year _____."

And issuing from the court of a county, city, or borough in the like form with necessary alterations; and shall be directed to the sheriff of that county, or the proper officer of that city or borough wherein the tenant resideth, or that wherein was his last place of abode. Upon which writ the court* shall be in this form or to this effect: "E to wit: A. B. by F. G. his attorney, demands against C. D. tenement,

containing _____ of land with the appurtenances in the county of E and bounded by _____. And whereupon the said A. B. saith that he hath right to have the tenement aforesaid, with the appurtenances, and offereth proof that such is his right." If several tene-

ments be demanded in the same count, the contents, situations and boundaries of each shall be inserted

1'lea,

therein. To which count the tenant may plead in this form or to this effect: "And the aforesaid C. D. by H. I. his attorney cometh and defendeth the right of the said A. B. when and where it behoveth him and all that concerneth it, and whatsoever he ought to defend, and chiefly the tenement aforesaid with the appurtenances, as of right namely tenement containing of land in the county of E, and bounded by and putteth himself upon the assize, and prayeth recognition to be made, whether he hath great

* So in original, but it should be count, as in Revised bills of 1779, ch 105.

er right to hold the tenement aforesaid with the appurtenances, as he now holdeth it (or them) or the said A. B. to have it as he now demandeth it (or them.)” And to such plea the replication shall be in this form or to this effect: “And the aforesaid A. B. in like manner putteth himself upon the assize, and prayeth recognition to be made whether he hath greater right to hold the tenement aforesaid as he demandeth, or the said C. D. as he holdeth it (or them.)” Whereupon twelve good and lawful men, qualified as jurors are required to be, shall be elected, tried, and charged, as the manner is, to make recognition of the assize; which charge shall be in this form or to this effect: “You shall say the truth whether C. D. hath more right to hold the tenement which A. B. demandeth against him, by his writ of right, or A. B. to have it (or them) as he demandeth.” And at the trial, any matter may be given in evidence which might have been specially pleaded. And upon the verdict, or in the case of a demurrer, the like judgment shall be given, and upon such judgment, the like execution awarded, as in case of a writ of right; and the party, for whom judgment shall be given, shall recover his costs of suit; and the demandant, if he recover his seisin, may also recover damages to be assessed by the recognitors of assize, for the tenants withholding possession of the tenement demanded. Where the *præcipe quad reddat* shall issue from the general court, if return thereof be made that the tenant is not found in the bailiwick of the officer to whom it was directed, the demandant may sue forth a writ of *exigi facias* in this form or to this effect: “The commonwealth of Virginia to the sheriff of E, greeting. We command you that you cause C. D. to be required, from county court to county court, until five courts be passed, if he doth not appear, and if he doth appear, then summon him that he be before the justices of our general court, at on the day of the next court, to shew wherefore he hath not rendered unto A. B. tenement containing of land, with the appurtenances in the county of E. And have you then there this writ.— Witness chief justice of our said court at the day of in the year .” And when the residence or last place of abode of the tenant shall be out of the county, in which

Replication.

Charge to jury.

Evidence.

Verdict

Exigi facias.

the land demanded lieth, a like writ of *exigi facias* shall also be directed to the sheriff of the latter county, and in either case a copy of such writ shall within four weeks after the teste thereof, be printed in the Virginia Gazette; and the said writ or writs of *exigi facias* being returned in due form, and being printed as aforesaid, if the tenant shall not appear at the court to which the same is or are returnable, judgment shall be entered, that the demandant recover his seisin against the tenant. Where the *præcipe quad reddat*

New præcipe.

shall issue from the court of a county, city, or borough, if return thereof be made that the tenant is not found in the bailiwick of the officer to whom it was directed, the demandant may sue forth a new *præcipe* every court, for five courts following, successively, if the tenant be not by one or other of them before summoned; and when the residence or last place of abode of the tenant shall be out of the county, city, or borough, in which the land demanded lieth, a *testatum præcipe* shall also be directed to the sheriff or proper

Testatum præcipe.

officer of the latter county, city, or borough; and in either case a copy of the first of the said five *præcipes*, shall within four weeks after the teste thereof, be printed in the Virginia Gazette, and a copy of that and every other of them, shall, within fourteen days after the teste of each, be set up at the door of his courthouse by the officer to whom it shall be directed, and who by an endorsement on such writ, shall be required by the clerk to do so, and return of the said five writs being made that the tenant is not found in the bailiwick or bailiwicks of the officer or officers, to whom they were directed, and that they had been set up as is before directed; and the first of them being printed as aforesaid, if the tenant shall not appear at the court to which some one of the said writs was returnable, judgment shall be entered, that the demandant recover his seisin against the tenant; but if the tenant, against whom without having appeared, or without having been summoned, any such judgment shall be rendered, shall be out of Virginia, at the time of the suit brought, the judgment shall be no bar to an action commenced by him, or any claiming under him, to be restored to the land recovered, within a year and a day after he or they shall come into the country, or remaining out of it, within seven years after the judg-

Publication.

ment; in which action or in a separate one, damages may also be recovered. If the tenant whether summoned or not shall appear, and afterwards make default, judgment shall be entered against him; and if having been summoned he shall not appear, the court shall make an order, that, unless he appear at the then next court, or see judgment shall be entered against him, which shall be entered accordingly, if a copy of that order being delivered to him or left at the place of his usual abode, fifteen days, or more, before such next court, and affidavit thereof being made, he shall not then appear. If the demandant or tenant, against whom any such judgment shall be rendered, at the time of the suit brought, shall be an infant, a married woman, or a person of unsound mind, the judgment shall be no bar to another action, commenced within five years after attainment of full age, discovery, or recovery of understanding, or within the same time after the death of such privileged person.

Judgment by
default.

CHAP. LX.

An act concerning partitions and joint rights and obligations.

From Rev.
Bills of 1779,
ch. CVI.

BE it enacted by the General Assembly, That all joint tenants, or tenants in common, who now are, or hereafter shall be, of any estates of inheritance in their own rights, or in the right of their wives, and all joint tenants, or tenants in common, who now hold or hereafter shall hold, jointly, or in common, for term of life or years, with others who have, or shall have estates of inheritance, or freehold in any lands, tenements, or hereditaments, may be compelled to make partition between them, of such lands, tenements, and hereditaments, as they now hold, or hereafter shall hold, as joint tenants, or tenants in common, by writs *de partitione facienda*, the forms whereof shall be devised in the general court, and adapted to the cases aforesaid: But no such partitions between joint tenants, or tenants in common, who hold or shall hold estates for

Partition be-
tween joint
tenants and
tenants in
common.

Right of
survivorship
abolished.

Joint obliga-
tions effect of

Writs of par-
tition.

Pleas in a-
batement not
admissible.

term of life or years, with others holding equal or greater estates, shall be prejudicial to any entitled to the reversions or remainders, after the death of the tenants for life, or after the expiration of the years. If partition be not made between joint tenants, whether they be such as might have been compelled to make partition, or not, or of whatever kind the estates or thing holden or possessed be, the parts of those who die first, shall not accrue to the survivors, but shall descend or pass by devise, and shall be subject to debts, charges, curtesy, or dower, or transmissible to executors or administrators, and be considered to every other intent and purpose, in the same manner as if such deceased joint tenants had been tenants in common. The representatives of one jointly bound with another for the payment of a debt, or for performance or forbearance of any act, or for any other thing, and dying in the life-time of the latter, may be charged by virtue of such obligation, in the same manner as such representatives might have been charged if the obligors had been bound severally as well as jointly. Partition may be demanded by one and the same writ, of all the several parcels of land or other real estate to which the parties have title, and execution thereupon done by the sheriff and jury, as heretofore, or by special commissioners to be appointed by the court, with assent of the parties, by allotment to each party of part in each parcel, or of parts in one or more parcels, or of one or more individual parcels, with or without the addition of a part or parts of other parcels, as shall be most for the interest of the parties in general. No plea in abatement shall be received in any suit for partition, nor shall it abate by the death of any tenant. After a writ of partition returned, affidavit being made by some credible person, that due notice of the writ had been given to the tenant or tenants to the action, and that a copy thereof had been left with him, her, or them, if he, she, or they could be found, or if not, that such notice had been given to, and a copy left with the wife, son, or daughter, being of the age of twenty one years, or upwards, and at the usual place of abode of such as could not be found, or the person in actual possession not being the demandant of the lands whereof partition is demanded, twenty days or more before the day of return, if the tenant or tenants shall not cause an appear-

ance to be entered, at the time by law appointed, or within one month thereafter, the demandant having filed his or her declaration, the court may proceed to examine his or her title, and the quantity demanded, and shall give judgment by default, for so much as he or she shall appear to them to have a right to, and award a writ to make partition, which being executed, after eight days notice given to the persons mentioned before, judgment final shall thereupon be given, which shall be as binding as if it had been given after an appearance; and upon a trial, unless any tenant within one year after the first judgment, or being an infant, a married woman, of unsound mind, or out of Virginia within one year after attainment of full age, death of the husband, recovery of understanding, or return to the country, respectively by motion to the court, either admitting the demandant's right and purpart, shall shew inequality in the partition, in which case the court may award a new partition to be made, and that in presence of all the parties, if they choose to attend it; and the second partition shall be as binding as if the tenant had appeared and pleaded in the first instance, or else shall shew sufficient matter in bar of the partition, or that the demandant hath not title to so much as he or she hath recovered, in which case the court may suspend or set aside the judgment, and admit the tenant to appear and plead, and the cause shall proceed as if no judgment had been given, and if upon the trial thereof, the court shall give the same judgment as the first, it shall stand confirmed, and the person or persons, in whose behalf the motion was made, shall be awarded to pay costs. The under shériff, when the high sheriff cannot conveniently attend, may in presence of two justices of the peace, proceed to the execution of a judgment in partition, by inquisition in due form of law, and the high sheriff shall make the same return as if he had acted in person. They who were tenants of the messuages, lands, tenements, and hereditaments or any part thereof, before they were divided, shall hold the same of the landlords, to whom they shall be allotted by the partition in severalty, under the same conditions, rents, covenants and reservations, and the landlords shall warrant the several parts unto the tenants, as they were bound to do by leases or grants, respectively: And any demandant who was

Judgment by default.

How judgment opened.

When under sheriff may execute.

Judgment in partition.

Tenure not altered by judgment.

tenant, in actual possession, to the tenant to the action for his purpart of the messuages, lands, tenements, and hereditaments, divided by virtue of a writ of partition, or any part thereof, shall hold it for the same term, and under the same conditions and covenants when it shall be allotted in severalty.

CHAP. LXI.

From Rev.
Bills of 1779,
ch. CVIII.

An act for speedy recovery of money due from certain persons to the public.

Public debt-
ors, summary
remedy a-
gainst.

BE it enacted by the General assembly, That when any person who hath received, or shall receive, public money from the treasurer for recruiting or paying the army, building, rigging, or furnishing ships or vessels of war, erecting fortifications, buying clothes, provision, arms, or ammunition, erecting or prosecuting public manufactories, or for other public use, hath not applied, or shall not apply the said money accordingly, or hath neglected, or shall neglect, to account for and repay so much thereof as shall remain unapplied, upon a motion on behalf of the commonwealth, made to any court of record, notice thereof in writing having been given ten days or more to the delinquent, with a state of the matter alledged against him, either by delivering copies of such notice and allegation to him, or leaving them at the place of his usual abode, the said court may give judgment, and award execution against him and his sureties, for so much as a jury to be impannelled instantly, unless good cause be shewn for deferring it, for trial of an issue, if he appear, and make it up, or for enquiry of damages if he appear not, or appearing, refuse to make up such issue, shall find to be due from him, on any such account as aforesaid, with damages, to be assessed by the jury, and costs. When the attorney prosecuting on behalf of the commonwealth, shall commence an action for breach of a contract, which hath been or shall be entered into with go-

vernment, or with an agent thereof, to supply the army or navy with provision or other articles, at the emanation of the writ he shall file a declaration, with an assignment of the breaches, which with the writ shall be delivered to the officer to whom that is directed, and served upon the defendant, fifteen days or more before the return day; and on such return day, or on the return day of the subsequent process, in case the preceding be not legally served, if the defendant appear and make up an issue, or if he appear not, or appearing, refuse to make up such issue, a jury shall be impannelled instantly, unless good cause be shewn for deferring it, to try the issue or inquire of the damages. And in like cases, the agents or contractors of the confederating states of America may, by the like remedy, on behalf and in the name of the said states recover money due to them.

CHAP. LXII.

An act for recovering demands of a small value in a summary way.

From Rev.
Bills of 1779.
ch CIX.

BE it enacted by the General Assembly, That any Petitions and
debt, or penalty, amounting to more than twenty-five summons for
shillings, or two hundred pounds of tobacco, and not small ac-
exceeding one hundred shillings, or eight hundred counts, how
pounds of tobacco, may be demanded by petition to prosecuted.
the court of a county, city or borough. The clerk of
the peace shall draw the petition, stating therein how
the debt become due, or by breach of what act of ge-
neral assembly the penalty was incurred, and shall is-
sue a summons directed to the sheriff, or other proper
officer, commanding him to summon the defendant to
appear and answer the petition; and the defendant be-
ing summoned ten days at least before the return day,
and being at the same time served with a copy of the
petition, together with a copy of the account, which
shall be filed, when the debt shall have arisen by ac-
count, the court shall and may hear and determine the

matter in dispute in a summary way, and give such judgment as shall appear to be just. And any person may, by petition to be served and tried in like manner, demand and recover goods detained, or the value of them, and damages for the detention, or damages for goods found by the defendant and converted to his use, where the goods, with the damages, are not of greater value than one hundred shillings, or eight hundred pounds of tobacco. And whosoever shall bring any other action, than a petition, if it appear, either by his own shewing in the declaration, or by the verdict of a jury, that he might have brought a petition by this act, shall be non-suit.

CHAP. LXIII.

From Rev.
Bills of 1779,
ch. CX.

An act providing that actions popular prosecuted by collusion, shall be no bar to those which be pursued with good faith.

Collusive popular actions,
no bar.

*BE it enacted by the General Assembly, That if any person hereafter sue with good faith any action popular, and any defendant in the same action plead any manner of recovery by action popular, in bar of the said action, or that he before that time barred any plaintiff in any such action popular, then the plaintiff in the action taken with good faith may aver that the said recovery in the said action popular was had by covin, or else may aver that the said plaintiff was barred in the said action popular by covin: Then if after the said collusion or covin so averred, be lawfully found, the plaintiff in that action sued with good faith, shall have recovery according to the nature of the action, and execution upon the same, in like wise and effect as though no such afore had been had. *Provided always,* That no plaintiff be in any wise received to aver any covin, in any action popular, where the point of the same action, or else the covin or collusion shall have*

been once tried, or lawfully found with the plaintiff or against him by trial of twelve men, and not otherwise. If the prosecutor of an action or information for the recovery of any penalty not wholly appropriated to the use of such proprietor, shall compound with the offender, or direct such suit or information to be discontinued, unless it be by leave of the court wherein the said suit or information shall be depending, such persecutor shall be liable for so much of the penalty to the commonwealth, or any other, as they would have been entitled to if the defendant had been convicted.

CHAP. LXIV.

From Rev.
Bills of 1779,
ch. CXI.

An act for preventing vexatious and malicious prosecutions, and moderating amercements.

BE it enacted by the General Assembly, That every Security for action at common law, or suit in equity, commenced costs. in the name of a person, not residing in Virginia, unless he be employed abroad in the service of the commonwealth, or of the United States of America, shall be dismissed if security be not given with the clerk of the court from whence the process shall issue, or wherein it shall be depending, within sixty days after notice, shall, at any time during such non-residence, have been given to the demandant, or plaintiff, or his attorney, by some person interested, that such security is required for payment of the costs and damages which may be awarded to the tenant or defendant, and also of the fees which will become due to the officers of the court. Information, No information for a trespass or misdemeanor, rules for shall be filed in any court but by express order of the filing. court, entered on record, nor unless the party supposed to be culpable shall have failed to appear and shew good cause to the contrary, having been required so to do by a summons, appointing a convenient time for that purpose, served upon him, or left at his usual

place of abode; and the name and surname of the prosecutor, and the town or county in which he shall reside, with his title or profession, shall be written at the foot of the information, before it be filed, and of every bill of indictment for any trespass or misdemeanor, before it be presented to the grand jury; and if the defendant shall appear to shew cause against the filing the information, or to answer the information or indictment, and the prosecutor shall not proceed further, or if the defendant shall be found not guilty by the petit jury, or a judgment shall be given for him, he shall recover his costs against the prosecutor with an attorney's fee, if one was employed, and the allowances to witnesses, to be taxed in the bill of costs, and may have execution for them, as the manner is in civil cases: And in every such information or indictment, the amercement which ought to be according to the degree of the fault, and saving to the offender his contenment, shall be assessed by twelve honest and lawful men, either those by whom the offender shall have been convicted, in case of a verdict, or those who shall be impannelled for that special purpose, where judgment shall be given against him upon the argument of a demurrer, or by his confession or default. No escheator, sheriff, coroner, or other inquisitor, shall hereafter have power of amercement, for default of common summons, save only the judges of the general court, or the respective county or corporation courts.

Amercements.

From Rev.
Bills of 1779,
ch. CXII.

CHAP. LXV.

An act providing a mean to help and speed poor persons in their suits.

Preamble. I. WHERE it is intended that indifferent justice shall be had and administered to all the citizens of this commonwealth, as well to the poor as the rich, which poor citizens be not of ability, nor power, to sue according to the laws of this land for redress of injuries and wrongs to them daily done, as well concerning their persons and their inheritance as other causes:

For remedy whereof, in behalf of the poor persons of this land not able to sue for their remedy after the course of the law,

Pauper suits
how prosecuted.

II. *Be it enacted by the General Assembly, That every poor person which shall have cause of action against any person within this commonwealth, shall have, by the discretion of the court before whom he would sue, writ or writs original, and writs of subpoena, according to the nature of his cause, nothing paying for the same. And that the said court shall direct their clerk to issue the necessary process, shall assign to him counsel learned in the laws, and appoint all other officers requisite and necessary to be had for the speed of the said suit to be had and made, who shall do their duties without any reward for their counsels, help and business in the same.*

CHAP. LXVI.

An act providing that an infant may sue by his next friend.

From Rev.
Bills of 1779,
ch. CXIII.

In every case where such as be within age may sue, it is enacted by the general assembly, that their next friends shall be admitted to sue for them.

Infants, may
sue by next
friend.

CHAP. LXVII.

An act declaring when the death of persons absenting themselves shall be presumed.

From Rev.
Bills of 1779,
ch. CXIV.

BE it enacted by the General Assembly, That any person absenting himself beyond sea, or elsewhere, for seven years successively, shall be presumed to be dead,

Presumption
of death,
when.

In any case wherein his death shall come in question, unless proof be made that he was alive within that time. But an estate recovered in any such case, if in a subsequent action or suit the person presumed to be dead shall be proved to be living, shall be restored to him who shall have been evicted, and he may moreover demand and recover the rents and profits of the estate, during such time as he shall have been deprived thereof, with lawful interest.

CHAP. LXVIII.

From Rev.
Bills of 1779,
ch. CXV.

An act prescribing a method of protesting inland bills of exchange, and allowing assignees of obligations to bring actions thereupon in their own names.

Bills of exchange, inland, how protested.

BE it enacted by the General Assembly, That if a bill of exchange, for the sum of five pounds, or upwards, dated at any place in Virginia, drawn upon a person at any other place therein expressed, to be for value received, and payable at a certain number of days, weeks, or months after date, being presented to the person, upon whom it shall be drawn, shall not be accepted by subscribing his name, with his proper hand to the acceptance, written at the foot, or on the back of the bill, or being accepted in that manner, and not otherwise, shall not be paid before the expiration of three days after it shall become due, the person to whom it shall be payable or his agent, or assigns, may cause the bill to be protested by a notary public, or if there be no such, by any other person in presence of two or more credible witnesses, for non-acceptance, in the form or to the effect following, written under a fair copy of the bill: " Know all men, that I, _____, on the _____ day of _____, at the usual place of abode of the above named _____, presented to him the bill, of which the above is a copy, and which

the said did not accept, whereof, I the said
 , do hereby protest the said bill. Dated
 at , this day of ;”
 or for non-payment after acceptance, in the same form
 or to the same effect, except that the words “presented
 to him the bill, of which the above is a copy, and which
 said did not accept,” shall be left out, and
 instead of them the words “demanded payment of the
 bill, of which the above is a copy, and which the said
 did not pay,” be inserted; And the drawer, such
 protest being sent to him, or notice thereof in writing be-
 ing given to him, or left at the place of his usual abode,
 within fourteen days thereafter, shall pay the money
 mentioned in the bill to the person entitled to it, with
 interest, at the rate of five per centum by the year,
 from the day of the protest; and he, to whom the bill
 shall be payable, neglecting to procure the protest to
 be made, or due notice thereof to be given, shall be li-
 able for all costs and damages accruing thereby. If the
 bill shall be lost or shall miscarry, the drawer shall sign
 and deliver another of the same tenour, sufficient secu-
 rity being given to indemnify him against all persons
 who may claim under the former. An action of debt may Debt on notes
 be maintained upon a note or writing, by which the per-
 son signing the same, shall promise or oblige himself
 to pay a sum of money or quantity of tobacco to ano-
 ther. Assignments of bonds, bills, and promissory Assignment
 notes, and other writings obligatory, for payment of of bonds.
 money or tobacco, shall be valid; and an assignee of
 any such may thereupon maintain an action of debt,
 in his own name, but shall allow all just discounts,
 not only against himself, but against the assignor, be-
 fore notice of the assignment was given to the defen-
 dant.

CHAP. LXIX.

*An act for reviving the inspection of
 tobacco at South-Quay, in the coun-
 ty of Nansemond.*

I. BE it enacted by the General Assembly, That the Inspection of
 inspection of tobacco on the lands of Richard Baker revived. tobacco at
 South Quay

at South-Quay, in the county of Nansemond, shall be, and the same is hereby revived and established; and that the houses erected for the reception of tobacco shall be kept in repair at the expence of the proprietor of the said land. The transfer notes issued by the inspectors at the said warehouse, shall be received in discharge of officers fees and public dues in the same manner as those of Suffolk inspection. Each of the inspectors at the warehouse shall receive a salary of twenty-five pounds per annum.

II. *Provided always, and be it further enacted, That if the quantity of tobacco inspected at the said warehouse shall not be sufficient to pay the usual charges and the inspectors salaries, the deficiency shall not be paid by the public.*

CHAP. LXX.

An act directing conveyances to be made for lands sold under the revenue law by John Owen, deceased, late sheriff of the county of Pittsylvania.

I. WHEREAS it is represented, that John Owen, sheriff of the county of Pittsylvania, in the years one thousand seven hundred and eighty-two, and one thousand seven hundred and eighty-three, sold parts of sundry tracts of land to satisfy and pay the taxes then due thereon, in the manner prescribed by law, but before any conveyances were executed, the said John Owen departed this life; and application hath been made for an act to authorise some person to execute deeds to the purchasers, for the said lands:

Lands sold
for taxes, by
John Owen,
sheriff of Pitt-
sylvania, how
conveyed.

II. *Be it therefore enacted by the General Assembly, That the sheriff of the said county of Pittsylvania shall, and he is hereby authorised and required, to execute deeds of conveyance for all lands sold under the revenue law by the said John Owen, and not conveyed by*

him, which shall be as effectual to all intents and purposes, as if the same had been conveyed by the said John Owen.

CHAP. LXXI.

An act for establishing a town in the county of Bourbon.

I. WHEREAS the village called and known by the name of Washington, in the county of Bourbon, containing about seven hundred acres of land, hath been laid off for in and out lots, with convenient streets; and it is represented to this present general assembly, that it will be of great advantage to the holders of the said lots and others, if the same were established a town:

Town of Washington, in Bourbon county, Kentucky, established.

II. *Be it therefore enacted*, That the said seven hundred acres of land, so laid off into lots and streets, shall be, and the same is hereby established a town, by the name of Washington; and that Edmund Lyne, Edward Waller, Henry Lee, Miles W. Conway, Arthur Fox, Daniel Boone, Robert Rankins, John Gutridge and William Lamb, gentlemen, be trustees of the same.—The said trustees, or a majority of them, are authorized to make such rules and orders for the regular building therein, as to them shall seem most conducive to the convenience of the inhabitants, and to settle and determine all disputes about the bounds of the said lots. In case of the death, resignation, removal out of the county, or other legal disability, of any one or more of the said trustees, it shall be lawful for the remaining trustees to choose others in their stead; which trustees so elected, shall have the same power and authority as any other in this act particularly appointed.

III. *And be it further enacted*, That so soon as the owners of lots within the said town, shall have built a dwelling-house, sixteen feet square, with a brick or stone chimney, such owner shall have and enjoy the same privileges and immunities, which the freeholders and inhabitants of other towns, not incorporated, hold and enjoy.

CHAP. LXXII.

An act to repeal in part the act intituled An act for regulating the streets in and adjoining to the town of Alexandria.

Part of the act regulating streets in Alexandria, repealed. *BE it enacted by the General Assembly, That so much of an act, intituled "An act for regulating the streets in and adjoining to the town of Alexandria," as relates to the contraction of Washington-street, between Queen street and Oronoko-street, shall be, and the same is hereby repealed.*

CHAP. LXXIII.

An act to extend the limits of the town of Alexandria.

Limits of the town of Alexandria extended. *BE it enacted by the General Assembly, That the limits of the town of Alexandria, shall extend to and include as well the lots formerly composing the said town, as those adjoining thereto, which have been and are improved.*

CHAP. LXXIV.

An act concerning mill-dams on the South Branch of Potowmack river.

Further time allowed, for making slopes in, and *BE it enacted, That the owner or proprietor of any and every mill on the South Branch of Potowmack*

river, from the mouth thereof upwards to the north fork, shall be allowed the farther time of one year, from and after the first day of January, one thousand seven hundred and eighty-seven, to make and fix in each mill-dam a proper slope for the passage of fish, and moreover to cut, or cause to be cut, a canal or race, by the means of which boats navigated in the said river may conveniently and safely pass up or down the same, without being impeded by such mill dams; any thing to the contrary thereof, contained in the act, intituled, "An act for improving the navigation of the South Branch of Potowmack river," notwithstanding.

cutting canals around mill dams on South Branch of Potowmack.

CHAP. LXXV.

An act to vest the lands whereof John Askins died seized, in Mary Arvin, his mother.

I. WHEREAS it is represented to this present general assembly, that John Askins, the only and natural son of Mary Arvin, hath lately departed this life, intestate and without issue, whereby his lands have been or are liable to be escheated and vested in the commonwealth; and whereas the said Mary Arvin hath made application that the said lands may be vested in her, which it is judged expedient and reasonable to do:

Lands whereof John Askins died seized, vested in his mother, Mary Arvin.

II. *Be it therefore enacted*, That the lands of which the said John Askins died seized, shall be, and they are hereby vested in his mother, the said Mary Arvin, in fee; any law to the contrary, notwithstanding.

III. *And be it further enacted*, That the said Mary Arvin shall, within twelve months after obtaining patents for the same, convey such parts of the said lands as were sold by the said John Askins before his death, to the persons who purchased the same, or their legal representatives. *Provided always*, That nothing herein contained shall be construed to injure or affect

the right or title of any person or persons, bodies politic or corporate, their heirs or successors, in or to the said lands.

CHAP. LXXVI.

An act to authorise the Cabin-Point Lodge of Free Masons to raise a sum of money by way of lottery.

Lottery authorised for Cabin Point Lodge of Free Masons.

BE it enacted by the General Assembly, That it shall and may be lawful for the members of the Cabin-Point Lodge of Free Masons, in the county of Surry, to raise by way of lottery, under the direction of Billy Haley Avery, John Howell Briggs, James Belsches, senior, James Willison, and Archibald Dunlop, gentlemen, who, or any three of whom, shall superintend the same, a sum not exceeding five hundred pounds, for the purpose of building a Mason's hall.

CHAP. LXXVII.

An act to establish an Academy on the Eastern shore.

Academy established on the Eastern shore.

BE it enacted by the General Assembly, That it shall and may be lawful for George Corbin, Isaac Avery, Thomas Evans, Littleton Savage, Levin Joynes, Griffin Stith, Abel Upshur, Littleton Eyre, George Parker, John Harmanson, Edward Kerr, and John Cropper, jun. gentlemen, who are hereby constituted trustees, to take and receive all such sums of money as have been or may be subscribed, and the same to dispose of towards procuring and establishing a seminary of learning either in the county of Accomack or Northampton, as to a majority of the said trustees

shall seem most expedient. The said trustees and their successors shall have power and capacity to purchase, receive and possess, lands & tenements, goods and chattels, either in fee or any lesser estate therein, and the same to grant, let, sell or assign; and to plead and be impleaded, prosecute and defend all causes, in law or equity, by the name of the Trustees of Margaret Academy.—The said trustees, or a majority of them, when assembled, shall have power to make and establish such by-laws and ordinances as they shall think best for the good government of the said academy, and to perform and do any thing respecting the property vested therein; provided such by-laws and ordinances shall not be inconsistent with the laws and constitution of this commonwealth. They shall choose a president and secretary out of their own body; and in case of vacancy, by death or otherwise, of any one or more of the said trustees, the same shall be supplied by a majority of the remaining trustees, so as to keep up the number of seven in the county of Accomack, and the number of five in Northampton.

CHAP. LXXVIII.

An act for vesting in James Mercer, esq; certain lands whereof George Mercer died seized.

I. WHEREAS it is represented to this present general assembly by James Mercer, esquire, eldest brother and heir at law of George Mercer, late of the city of London, deceased, that the said George Mercer departed this life at London aforementioned, in the month of April, in the year of our Lord one thousand seven hundred and eighty-four, seized of certain small parcels of land within this commonwealth, which then were and still are in possession of the said James Mercer, as attorney in fact for the said George Mercer, and which, in case of the intestacy of the said George Mercer, would descend to the said James Mercer, as heir of the said George Mercer. And also whereas it is sup-

Certain lands whereof George Mercer died seized, vested in James Mercer.

posed that the said George Mercer made a will in writing, as and for his last will, a private copy whereof has been transmitted to the said James Mercer, bearing date at London aforementioned, on the first day of September, one thousand seven hundred and seventy, by which will it appears that the said George Mercer devised all his real and personal estate within this commonwealth, which was at that time very considerable, unto the said James Mercer, in fee-simple, except a few very inconsiderable legacies in the said will mentioned, and also excepting a certain part of his real estate, which he devised unto Edward Montague, esq; of Lincoln-Inn-Field, in the said city of London, and unto James Whyte, esquire, of Bride-street, in the city of Dublin, upon trust, to secure the payment of certain debts, limiting a remainder therein, after those purposes should be answered, to the said James Mercer in fee-simple, constituting the aforementioned Edward Montague, James Whyte, and James Mercer, sole executors of the said will. And also whereas it is represented, that the trust devised to the said Montague and Whyte, was by subsequent acts of the said George Mercer in his life time made void, by which the whole estate would, under the will aforesaid, become immediately vested in the said James Mercer, but the said James Mercer being unable to procure the said original will, the same being destroyed or suppressed, he cannot act under the said will, nor can the said James Mercer act in the character of heir at law, lest the said will should hereafter be produced and established, and the trust-interest of the said Montague and Whyte be adjudged to be a subsisting lien on the estate of the said George Mercer, which would render void all the actings of the said James Mercer, as heir at law, to the great detriment of the said James Mercer, and to the manifest prejudice of all the creditors of the said George Mercer, who are said to have claims far beyond the value of the whole estate, of which the said George Mercer died seized. And also, whereas the real estates of which the said George Mercer died seized, yield no profit, being unimproved, and are subject to certain loss for public taxes, and the interest which would arise from their value, in case the same were sold; and the said James Mercer being willing to stand chargeable to any claimant, who may hereafter be proved to have a spe-

cific claim on such lands, either by mortgage, or under the will aforesaid, for the value such lands shall actually sell for, deducting reasonable charges attending such sales; and it will be manifestly to the interest of the creditors of the said George Mercer to ensure purchasers by removing all doubts touching the title of the said James Mercer, to sell the said lands, which will greatly enhance the value thereof:

II. *Be it enacted*, That all the interests, which were of the said George Mercer, deceased, at the time of his death, in real or personal estate within this commonwealth, either in law or equity, be, and the same are hereby vested in the afore-named James Mercer, his heirs and assigns, as heir to the said George Mercer, as fully and absolutely as if the said George Mercer had actually departed this life intestate, and at the time of his death had been actually a resident citizen within this state. *Provided always*, That so soon as the said will, or any last will of the said George Mercer, shall be proved and established at law, that then and thenceforward such last will shall have the same effect as if this act was then repealed, and the interest of the said James Mercer, as heir at law, shall then cease and determine.

III. *And be it further enacted*, That from and after the passing of this act, and until a will of the said George Mercer shall be established, it shall and may be lawful for the said James Mercer to sell and dispose of any or all of the lands, which were the said George Mercer's at the time of his death, and being within this commonwealth, by way of public auction, and upon twelve months credit, and to convey the absolute estate in such lands to the purchaser, such purchaser giving bond with sufficient security for the purchase money, payable to the said James Mercer, as heir of the said George Mercer. *Provided always*, That the said James Mercer shall, before any such sale, enter into bond with sufficient security, to be approved of by the corporation court of the town of Fredericksburg, in such penal sum as the said court shall direct, with condition for paying the produce of the sales of such lands to such person or persons as hereafter may be adjudged to have had the best title thereto, either by mortgage, or last will of the said George Mercer; which bond shall be made payable to

the justices of the said corporation court and their successors, and be recorded among the records of the said court; and may be prosecuted in the names of the said justices, at the instance of, and at the risque and costs of any mortgagee or devisee, entitled to such lands respectively, for the recovery of the proceeds of the sales thereof, after deducting the costs and charges of such sales, in the same manner as a sheriff's bond may now by law be sued and prosecuted.

IV. *Provided also, and be it enacted,* That it shall and may be lawful for the said James Mercer to discharge any such claim, by assigning to the claimant the bond actually taken for the purchase of the land to which such claimant makes title; and the said James Mercer shall not be chargeable for the money arising from such sales, unless the security taken for the payment thereof shall be adjudged insufficient at the time of his entering into such bond.

V. *And be it further enacted,* That it shall and may be lawful for the said corporation court, and the said court is hereby required, upon the application of the said James Mercer, to grant him a certificate for obtaining administration on the personal estate of the said George Mercer, deceased, within this state, the said court taking bond and security as in ordinary cases.

VI. *Provided nevertheless, and be it enacted,* That the said court, before granting such certificate, shall administer to the said James Mercer the following oath, instead of the oath now prescribed to be taken by an administrator, to wit: "I James Mercer, do swear that I have been informed, and verily believe, that George Mercer, esquire, my elder brother, died at London some time in the month of April, one thousand seven hundred and eighty four, single and unmarried, and that I have not in my keeping any original will of the said George Mercer, nor can I obtain the one the said George Mercer is said to have made; and that I will well and truly administer all and singular the goods, chattels, and credits of the said George Mercer, and pay his debts as far as his goods, chattels and credits will thereunto extend and the law require me; and that I will make a true and perfect inventory of all the said goods, chattels and credits, as also a just account, when thereto required; and that I

Special oath,
as to admin-
istration.

will cease to act as administrator of the said George Mercer, as soon as any will of the said George Mercer shall be duly proved and recorded, except as to suits which shall then be depending." Saving to all and every person and persons whatsoever, bodies politic and corporate, other than this commonwealth, and those claiming or to claim under the said George Mercer, as trustee, mortgagee, or devisee, all right, title, and interest, which they or either of them might or could have to any lands of the said George Mercer, in the same manner as if this act had never been made.

CHAP. LXXIX.

An act appointing trustees to sell part of the lands of John Todd, deceased, for the payment of his debts, and for other purposes.

I. WHEREAS John Todd, of the county of Fayette, died some time in the year one thousand seven hundred and eighty two, leaving Mary Owen Todd, an infant, under the age of twenty-one years, his heir at law, and it being represented to this present general assembly that the personal estate of the said John Todd is by no means adequate to the payment of his debts, and that it will be greatly advantageous to the said Mary Owen Todd, to preserve the said personal estate and the slaves whereof he died possessed, by authorising the executors to sell so much of the lands whereof he died seized, as will be sufficient to discharge the aforesaid debts, and to purchase three slaves to be vested in the said Mary Owen Todd, and Jane Todd, widow and executrix of the said John Todd; and the said Jane Todd and Robert Todd, executor of the said John Todd, deceased, having petitioned this assembly that an act may pass for that purpose:

Sale of part of lands of John Todd, dec'd, authorised for the payment of his debts.

II. Be it therefore enacted by the General Assembly, That James Wilkinson, Thomas Marshall, John Co-

burn, and Joseph Crocket, gentlemen, shall be, and they are hereby appointed trustees for the following purposes, that is to say: The said trustees, or any three of them, shall, immediately upon receipt of this act, demand of the executors of the said John Todd, deceased, an accurate account of all the debts which shall be due from his estate, and upon receipt thereof, shall proceed to sell in such manner as to them shall seem most advantageous, so much of the lands whereof the said John Todd died seized, as shall be sufficient to discharge the aforesaid debts, and to purchase two young negro men and one young negro woman: *Provided nevertheless*, That the said trustees shall not be authorised to sell the tract of land in the county of Fayette, whereon the said John Todd resided at the time of his death, or any part thereof: *Provided also*, That they shall not sell in consequence of the powers hereby given to them, more than one fourth part of the lands whereof the said John Todd died seized. So soon as the said trustees shall have purchased the slaves above mentioned, they shall convey two of them to the said Mary Owen Todd and her heirs, by deed to be recorded in the dourt of Fayette county, and shall also in like manner convey the remaining one to the said Jane Todd, during life, with remainder to the said Mary Owen Todd. The said trustees, when they have performed the trust reposed in them by this act, shall make a fair statement of their proceedings therein, which having been examined and approved by the court of Fayette county, shall be recorded therein, and thenceforth the said trustees shall be discharged from the said trust.

CHAP. LXXX.

An act to establish a town on the lands of Charles Washington, in the county of Berkeley.

Town of
Charlestown,
in Berkeley
county, esta-
blished.

BE it enacted by the General Assembly, That eighty acres of land, the property of Charles Washington, lying in the county of Berkeley, be laid out

in such manner as he may judge best, into lots of half an acre each, with convenient streets, which shall be, and is hereby established a town, by the name of Charlestown. That John Augustine Washington, Robert Rutherford, William Darke, James Crane, Cato Moore, Benjamin Rankin, Magnus Tate, Thornton Washington, William Little, Alexander White, and Richard Ransone, gentlemen, are hereby appointed trustees of the said town, and that they, or a majority of them shall have full power from time to time, to settle and determine all disputes concerning the bounds of the lots, and to establish such rules and orders for the regular building of houses thereon, as to them shall seem best; and in case of the death, removal out of the county, or other legal disability, of any one or more of the said trustees, it shall be lawful for the remaining trustees to elect and choose others in the room of those dead or disabled, and the person or persons so elected, shall be vested with the same powers and authority as any one in this act particularly appointed. So soon as the purchasers or owners of lots within the said town shall have built thereon a dwelling house, sixteen feet square, with a brick or stone chimney, such purchaser and owner shall be entitled to, and have and enjoy, all the rights, privileges, and immunities, which the freeholders and inhabitants of other towns in this state, not incorporated, hold and enjoy.

CHAP. LXXXI.

An act to enable the trustees of the Fredericksburg academy, to dispose of certain lands.

I. WHEREAS it has been represented to the general assembly, that it would be of great advantage to the Fredericksburg academy, to authorise the trustees thereof to dispose of a small quantity of sunken ground, and the materials of a stone building, granted to the Trustees of Fredericksburg academy, my authorised to dispose of part of their lands.

said academy by an act of assembly, in the year one thousand seven hundred and eighty two:

II. *Be it therefore enacted, That it shall be lawful for the said trustees, or the major part of them, to sell and convey so much of the sunken or low lands belonging to the said academy, as to them shall seem proper, and also the materials of a stone building erected thereon, and apply the money arising from the sales thereof in such manner as they shall think most for the benefit of the said academy.*

CHAP. LXXXII.

An act giving further time to purchasers of lots in the town of Louisville to build thereon.

Further time allowed purchasers of lots in Louisville to build thereon.

I. WHEREAS the purchasers of lots in the town of Louisville, in the county of Jefferson, from the frequent incursions and depredations of the Indians, and the difficulty of procuring materials, have not been able to build on their said lots within the time prescribed by law:

II. *Be it therefore enacted, That the further time of three years from the passing of this act, shall be allowed the purchasers of lots in the said town to build upon and save the same.*

CHAP. LXXXIII.

An act appointing trustees for the town of Dumfries.

Trustees for town of Dumfries appointed.

I. *BE it enacted by the General Assembly, That Henry Lee, sen. Thomas Blackburn, William Carr, Richard Graham, Alexander Lithgow, George Gra-*

nam, John Pope, William Linton, Thomas Lee, John M'Crae, Willoughby Tebbs, and Nathaniel Chapman Hunter, gentlemen, are hereby constituted and appointed trustees of the town of Dumfries. They, or the major part of them, shall have power from time to time, to settle and determine all disputes concerning the bounds of the lots in the said town, establish such rules for the regular building of houses thereon, as they shall seem meet and convenient and be vested with the same powers and authority given to the trustees of the said town when the same was established.

II, *And be it further enacted*, That from and after the passing of this act, the trustees shall be resident in, or freeholders of the said town; and upon the death or other legal disability, of any of the said trustees, the vacancy thereby occasioned shall be supplied by the remaining trustees; and the person or persons so elected, shall have the same powers and authority as any one in this act particularly appointed.

CHAP. LXXXIV.

An act prescribing the method of advertising strays taken up in the district of Kentucky.

BE it enacted by the General Assembly, That so much of the act concerning strays, as directs the advertising of them in the Virginia Gazette, shall not be in force in the district called and known by the name of the Kentucky district, and instead thereof, the like advertisement shall be posted up at the door of the court-house of the supreme court for two days at two different succeeding sessions; a list of which advertisements shall be noted in a book to be kept by the clerk of the before recited court, for the recording of which he shall receive the sum of two shillings.

Mode of advertising strays, in Kentucky.

CHAP. LXXXV.

An act to enlarge the town of Falmouth.

Town of Falmouth enlarged.

I. *BE it enacted by the General Assembly, That* it shall be lawful for the trustees of the town of Falmouth, and they are hereby directed, to survey and lay off a quantity of land, not exceeding twenty acres, on the north-west side of the said town, into lots of half an acre each, with convenient streets, which shall thenceforth be added to and made a part of the said town.

II. *Provided always, and be it further enacted,* That the said trustees, in forming and extending the streets within the said lots, shall not interfere with any buildings erected thereon.

CHAP. LXXXVI.

An act for altering the place of holding courts in the county of Henry.

Place of holding courts in Henry county altered.

BE it enacted by the General Assembly, That it shall be lawful for a majority of the acting justices of the peace for the county of Henry, and they are hereby required, to fix on a place for holding courts in the said county, at or as near the centre thereof, as the situation and convenience will admit of; and thenceforth proceed to erect the necessary public buildings at such place, and until such buildings be compleated, to appoint any place for holding courts as they shall think proper.

CHAP. LXXXVII.

An act for opening and straightening certain public roads.

Provision for opening and straightening

I. *BE it enacted by the General Assembly, That* Thomas Prosser, Hezekiah Henley, George Clough,

John Anderson, (of Taylor's-creek) Robert Armistead, Charles Barret, Beverley Winslow, Thomas Fowler, Charles Porter, William Pannel, French Strother, and William Roberts, gentlemen, be, and they are hereby appointed commissioners; and they, or a majority of them, shall on or before the first day of March next, view and fix upon the most convenient and direct way for opening a road from Chester's-gap, in the county of Culpeper, to the city of Richmond, having regard as well to the situation of the ground, as the convenience of individuals, through whose lands the said road is to be opened, and make report of their proceedings to the courts of each of the counties of Culpeper, Orange, Louisa, Spotsylvania, Hanover, and Henrico; and the courts of the said counties shall severally within two months thereafter, appoint a proper person or persons, and allot him or them a sufficient number of hands for clearing and opening the road, where the same is fixed to go by the said commissioners within the county, in such manner as is by law directed for public roads. The commissioners failing to view and fix on the way for opening the said road, and make report within the time aforesaid, shall each forfeit and pay the sum of ten pounds. The justices of each of the said counties, failing to appoint proper persons and hands for opening and clearing the said road, shall forfeit and pay the sum of one hundred pounds; which several penalties shall be recovered by information, and applied, one moiety to the informer and the other moiety towards lessening the levy of the county where such forfeiture shall arise.

II. *And be it further enacted*, That the commissioners appointed by an act, intituled "An act for keeping certain roads in repair," or any three of them, being first sworn, shall have full power, and are hereby required, to view and mark out the most convenient way for turning and straightening the roads leading from Vestall's and Snicker's-gaps to Alexandria, having regard as well to the situation of individuals, who may be affected thereby, as the convenience of the public, and to direct the same to be opened and repaired agreeable to the said act.

III. *And be it further enacted*, That Nathaniel Wilkinson, Daniel Laurence Hylton, Thomas Tinsley, John Winston, James Taylor, George Philips, Jona-

road from
Chester's gap
to Richmond.

Road from
Vestall's and
Snicker's gap
to Alexan-
dria to be
straightened.

So from Fred-
ericksburg to
Richmond.

than Clarke, and James Tutt, gentlemen, are hereby constituted commissioners; and they, or a majority of them, shall on or before the twentieth day of March next, view and fix on the most convenient and direct way for opening a road from Fredericksburg to the city of Richmond, having regard as well to the situation of the ground, as the convenience of individuals, through whose lands such road is to be opened, and make report thereof to the courts of the counties through which the same is to pass; and thereupon the like proceedings shall be had, and the same penalties inflicted, and recovered in like manner, as is herein before directed and prescribed in opening the road from Chester's-gap to the city of Richmond.

IV. *And be it further enacted*, That no county court shall have power, by any order or proceeding, to alter or change the ground or course of either of the said recited roads, established as aforesaid.

CHAP. LXXXVIII.

An act for incorporating the town of York.

Town of York
incorporated.

BE it enacted by the General Assembly, That on the first Monday in March next, and on the same day in every year afterwards, the freeholders of lots within the town of York, whether improved or not, and whether such freeholders reside therein or not, and the house-keepers and inhabitants of the said town, who shall have resided therein at any time for the space of three months without the intermission of one twelve month, and possess in their own right within the same, moveable or immoveable property to the value of fifty pounds, shall meet at the court-house of the county, or at such other place as shall by a bye-law be hereafter appointed, and shall then and there elect by ballot twelve fit and able men, being freeholders and inhabitants of the said town, who, or a major part of them, shall on the same or second day thereafter, between the hours of eight and twelve in the forenoon, publicly elect by ballot from among themselves, one person to

act as mayor, another as recorder, and four others as aldermen, of the said town, and the other six of whom shall be common-council. The power of the persons at any time elected mayor, recorder, aldermen, and common-councilmen, shall not be continued longer than until other persons shall have been elected to those offices respectively, or than the expiration of the second day immediately following the said first Monday in March in every year, as the case may be; but they may nevertheless be re-elected, except that no person shall be capable of acting as mayor more than once in any term of three years. Vacancies occasioned by death, disability, or resignation, at any time before the annual election, shall be supplied by the choice of the mayor, recorder, aldermen, and common-council, in common hall assembled, that is to say, a vacancy in the office of mayor or recorder, shall be supplied out of the aldermen; a vacancy in the office of alderman, out of the common-council; and a vacancy in the common-council, out of the freeholders and inhabitants of the said town. The mayor, recorder, and aldermen, to be elected on the said first Monday in March next, shall not enter upon the execution of their office until they have respectively taken an oath, or affirmation, before some justice of the peace of the county of York, for the faithful discharge of the duties thereof; and the mayor, recorder, and aldermen, to be elected afterwards, shall take such oath, or affirmation, before they respectively enter upon the duties of their office, in the presence of the court of hustings, or of some meeting of the common council hereafter mentioned. The said freeholders, house keepers, and inhabitants, and those persons, who shall hereafter become freeholders, house keepers, or inhabitants, as aforesaid, shall be a body politic and corporate, by the name of the mayor, aldermen, and commonalty, of the town of York, and by that name have perpetual succession and a common seal. They and their successors by the name aforesaid, shall be capable in law to have, purchase, receive, enjoy, possess, and retain to them and their successors forever, any lands, rents, tenements, or hereditaments, of what kind, nature, or quality soever; and also to sell grant, demise, alien, or dispose of the same; and by the same name to sue and implead, be sued and impleaded, answer and be an-

Style of corporation.

swered in all courts and places; and from time to time to make and establish such bye-laws, rules, and ordinances, not contrary to the constitution or laws of this commonwealth, as shall by them be thought necessary for the good ordering and government of such persons as shall from time to time reside within the limits of the said town, or shall be concerned in interest therein. That they and their successors, by the name aforesaid, shall especially have power to rent, erect or repair work-houses, houses of correction, a court-house, prison, market-house, and hospitals for the reception of persons infected with contagious disorders, and other public buildings, for the benefit of the said town; to pay the charges of removing such infected persons to the hospital, to provide doctors, nurses, and other necessary attendants, as well as guards to prevent the spreading of such disorders; and keep in order the streets and lands in the said town; and to impose taxes on the white and black male tithables, and on the property, real and personal within the said town, for the execution of all or any of the powers hereby given them; to make provisions and regulations for collecting and accounting for the taxes raised, by appointing a collector, or directing distress to be made for delinquencies, or by any other ways or means; to erect wharfs, and to lay a reasonable duty on the vessels coming to and using the same, for the purpose of defraying the expence of erecting and keeping in repair the wharfs so erected; to fix fines upon the owner or holder of every billiard table, tippling-house, booth or tent within the jurisdiction of the corporation; and to demand reasonable fees for every ordinary license within the same, over and above those established for raising a revenue; and to expel disorderly persons, who shall not have been resident therein for twelve months. . That all acts herein directed to be done by the mayor, recorder, aldermen, and common-council, shall be done by them when assembled in common-hall, when seven members shall be present, of which the mayor, recorder, or eldest alderman, shall always be one. They shall meet upon the summons of such mayor, or in his absence, sickness or disability of the recorder, or in the absence, sickness, or disability of both mayor and recorder, then of the eldest alderman. The mayor, recorder, and aldermen, or any four or

more of them, shall have power to hold a court of hustings on the fourth Monday in every month. The jurisdiction of such court shall relate to those cases, which originate within the limits of the said town, and shall be the same as the jurisdiction of the county courts, as established by the act, intituled "An act for establishing county courts, and regulating the proceedings therein," except in the following instances; the said court shall not hear and determine any penal cause, unless it be for a breach of the laws of the corporation, the penalty whereof does not exceed forty shillings, or two hundred pounds of crop tobacco; nor any action where the cause of it exceeds the value of fifty pounds, or five thousand pounds weight of crop tobacco, unless it be in ejectment. The said court shall have the power of examining and trying criminals for all offences committed within the limits of the said corporation, either at their monthly sessions, or in the vacation, in the same manner as the county courts can or may do by law; the said court shall have the sole power of licensing tavern keepers and settling their rates, establishing an assize of bread, wine, wood, coal and other things, and also of appointing a serjeant, who shall have the power of a sheriff, constables, and other necessary officers of the court, and surveyors of the streets, and any other officers not especially directed in this act to be appointed by any other power. The same fees shall be allowed to the officers of the court as are by law allowed to the clerk and sheriff of a county, and shall be collected and accounted for in the same manner. No officer of the court shall enter upon his office until he shall have taken an oath, or affirmation, before the court for the faithful discharge of the duties thereof. The serjeant shall moreover give bond with sufficient security, payable to the mayor, recorder, aldermen, and common council, and their successors, in reasonable penalty, for the due execution of his office. The mayor, recorder, and aldermen shall each be vested with the powers of justices of the peace within the said town, for matters arising within the same according to the laws of this commonwealth. The mayor, recorder, any alderman or common councilman; may be removed from his office for good cause, and after due summons, by the opinion of seven members of the common hall; and no bye-law, ordinance or regulation

shall be binding, unless the same shall have been passed and entered into by the voice of seven members of the common hall. The court of hustings of the said town of York, shall be and the same is hereby constituted a court of record, and as such to receive probate of wills and deeds, and grant administration and marriage licenses, in as full and ample manner as the county courts by law can or may do. *Provided always*, That no will shall be admitted to record in the said court, nor shall the said court grant administration, unless the testator or intestate, as the case may be, was resident within the limits of the jurisdiction of the said court at the time of his or her death; nor shall any deed whereby lands are conveyed, be admitted to proof or record in the said court, unless such lands be within the limits as aforesaid. No ordinary keeper in the town of York, shall be capable of serving as mayor, recorder, alderman, or common council thereof.



CHAP. LXXXIX.

An act to emancipate James, a negro slave, the property of William Armistead, gentleman.

I WHEREAS it is represented that James, a negro slave, the property of William Armistead, gentleman, of the county of New Kent, did, with the permission of his master, in the year one thousand seven hundred and eighty-one, enter into the service of the Marquis la Fayette, and at the peril of his life found means to frequent the British camp, and thereby faithfully executed important commissions entrusted to him by the marquis; and the said James hath made application to this assembly to set him free, and to make his said master adequate compensation for his value, which it is judged reasonable and right to do.

II. *Be it therefore enacted*, That the said James shall, from and after the passing of this act, enjoy as full freedom as if he had been born free; any law to the contrary thereof, notwithstanding.

James, a slave
the property
of Wm Armistead,
emancipated.

III. *And be it further enacted*, That the executive shall, as soon as may be, appoint a proper person, and the said William Armistead another, who shall ascertain and fix the value of the said James, and to certify such valuation to the auditor of accounts, who shall issue his warrant to the treasurer for the same, to be paid out of the general fund.

CHAP. XC.

*An act to compel the performance of
a Trust under the Will of John
Williamson, deceased.*

I. WHEREAS John Williamson, late of the county of Hanover, deceased, by his last will, among other things, did give and devise a part of his estate to certain persons, and their successors forever, in trust, for them to apply the profits thereof annually to particular purposes directed in his will, with power in case of the death or removal of any one of the said trustees, for the survivors to supply the vacancy for ever, as the same should happen; but made no provision for the said trustees to account for the execution of the said trust, or to compel them to apply the profits of the estate as directed by the will, which it is just and right they should do:

Trustees, under the will of John Williamson, dec. how to account.

II. *Be it therefore enacted by the General Assembly*, That the present trustees, under the will of the said John Williamson, and their successors forever, shall annually, either in the month of June or July, return an account upon oath to the court of their respective counties wherein they reside, as well of the profits of the said trust estate, as of the disposition and application thereof, to be by the clerk of the court recorded. Every trustee shall give such bond and security in the court of the county where he resides, as the trustees immediately appointed by the will of the said John Williamson gave, before they shall proceed to execute the said trust.

CHAP. XCI.

An act to enable the executors of James Scott, deceased, to sell a part of his lands for the payment of his debts.

Executors of James Scott, authorised to sell part of his lands, for payment of his debts.

I. WHEREAS James Scott, gentleman, late of the county of Fauquier, died seized of a considerable real estate, leaving a widow and eight children, and by his will directed that his children should be maintained and educated out of the profits of his estate, and that after the death of his wife, the same should be sold and equally divided amongst them, making no provision therein for the payment of his debts; and whereas it is represented to this assembly, by Elizabeth Scott, widow and executrix, and Cuthbert Bullitt, surviving executor of the said James Scott, that the slaves and personal estate, if sold for the payment of the debts, will deprive the children of the means of being maintained and educated according to the will of the said James Scott, and they have made application for an act to enable them to dispose of so much land as will be sufficient to pay the debts:

II. *Be it therefore enacted*, That the said executors shall be, and they are hereby authorised and empowered, to sell and convey so much of the lands of the said James Scott, as was directed by his will to be sold after the death of his widow, as will raise a sum sufficient for the payment of their testator's debts, taking bond with sufficient security from the purchaser or purchasers for the sales of the said land.

CHAP. XCII.

An act for clearing and extending the navigation of Chickahominy river.

Provision for clearing and extending

1. WHEREAS extending the navigation of Chickahominy river will be of public utility, and it is repre-

sented to this present general assembly that many persons are willing and desirous to subscribe thereto: navigation of
Chickahominy river.

II. *Be it therefore enacted*, That William Douglass, Daniel Trueheart, Julius Allen, Miles Selden, William Macon, William Lewis, William Christian, Richmond Terrel, Joseph Vaiden, William Carter, and John Price, gentlemen, be, and they are hereby nominated, constituted, and appointed trustees, for clearing and extending the navigation of the said river, as far up the same as the Meadow Bridges, and they are hereby authorised and empowered, to take and receive subscriptions for that purpose. And if any person or persons shall neglect or refuse to pay the several sums of money by them respectively subscribed for the purposes of this act, it shall and may be lawful for the said trustees to sue for and recover the same, in the name of the trustees aforesaid, by petition where the subscription shall not exceed five pounds, and where the same shall be above that sum, by action of debt, founded on this act.

III. *And be it further enacted*, That the said trustees, or a major part of them, shall have full power and authority to contract and agree with any person or persons for clearing and extending the navigation of the river aforesaid, in such manner as to the said trustees shall seem most proper, and to remove all hedges or stops, which the said trustees shall think may, in any wise, obstruct the said navigation.

IV. *And be it further enacted*, That the said trustees, or a major part of them, from time to time, as often as they shall see occasion, shall and may nominate and appoint one or more of their number, willing to undertake the same, to be receiver or receivers of all monies that shall be subscribed in consequence of this act; who shall, in the court of the county where he or they shall reside, give bond with two or more sufficient securities, in a reasonable penalty, payable to the said trustees or their successors, with the condition that he or they, his or their heirs, executors or administrators, at all times when required, shall and will truly and faithfully account to the said trustees for all such monies as shall come to the hands of such receiver or receivers for the purposes of this act, and pay the same to such person or persons, as the said

trustees or a major part of them, shall order and direct.

V. *And be it further enacted*, That in case of the death, resignation, or legal disability, of any one or more of the trustees before named, it shall and may be lawful for the surviving or remaining trustees, or any six of them, from time to time to elect so many other persons, in the room of those dead, resigned, or disabled, as shall make up the number of eleven; which trustees, so chosen, shall be vested with the same power and authority, as any other in this act particularly named.

VI. *And be it further enacted*, That nothing herein contained shall in any wise be construed to affect the rights of individuals, by clearing the main channel of the said river, where there are any disputes respecting the course of the same.



CHAP. XCIII.

[See ante pa.
114.]

An act to legalize the qualification of the late Surveyor of Yohogania county.

Acts of late
surveyor of
Yohogania
county, le-
galized.

I. WHEREAS it is represented to this present general assembly, that Benjamin Johnston was, on the twelfth day of September one thousand seven hundred and eighty three, legally commissioned surveyor of the county of Yohogania, but as no court was afterwards held in the said county (the extension of the boundary line between this state and Pennsylvania having included in the latter the magistrates, sheriff, and clerk) the said Benjamin Johnston could not qualify to his commission in manner directed by law, yet he entered into bond on the third day of October, in the same year, with two sufficient securities, before the late clerk of Yohogania court, and proceeded to the execution of his office. And whereas doubts have arisen whether the said Benjamin Johnston was legally qualified as surveyor, and thereby, the rights of individuals may be questioned: For remedy whereof,

II. *Be it enacted*, That the bond executed by the said Benjamin Johnston, as surveyor for the said county of Yohogania, before the late clerk of the said county court, shall be as good and valid in law, as if the same had been taken and executed in open court, and that all acts done by the said Benjamin Johnston, as surveyor, shall be as valid as if he had qualified to his commission in manner directed by law. *Provided*, That nothing contained in this act shall be construed so as to affect the rights of any person or persons, their heirs or assigns, claiming title to any of the lands by prior entries, surveys, patents, or pre-emptions.

CHAP. XCIV.

An act for confirming the estate of Reuben Coutts, in the ferry from Richmond to Manchester, and in certain lands, and the fisheries thereunto belonging.

I. WHEREAS Patrick Coutts, merchant, late of the city of Richmond, departed this life some time in the year one thousand seven hundred and seventy-six, and in and by his last will and testament, devised to Reuben Coutts, his natural son, an estate for life in the ferry from Richmond to Manchester, called Coutt's ferry, in the lands thereto adjoining, and in the fisheries belonging to the said lands. And whereas it has been represented to the present general assembly, that it was the intention of the said Patrick Coutts to devise an estate in fee simple in the said ferry, fishery, and lands, to the said Reuben Coutts; and it has been suggested that the reversion expectant upon the estate for life of the said Reuben Coutts, is become escheatable to the commonwealth, and the said Reuben Coutts, having petitioned this assembly that the same may be vested in him.

Reuben Coutts confirmed in his estate, in the ferry from Richmond to Manchester, and in certain lands & fisheries.

II. *Be it therefore enacted by the General Assembly*, That the reversion expectant upon the estate for life of

the said Reuben Coutts, in the said ferry, fishery, and lands, shall be, and the same is hereby vested in the said Reuben Coutts; and his heirs forever. Saving nevertheless the rights, legal, and equitable, of all and every person, and persons, bodies politic or corporate, except of the commonwealth, and of those claiming under it, in or to the said reversion, and every part thereof,

CHAP. CXV.

An act concerning the Nansemond tribe of Indians.

Lands of Nansemond tribe of Indians, in Southampton sold to Wm. Bennett.

I. WHEREAS it is represented to this present general assembly, that there are only now remaining five persons of the Nansemond tribe of Indians, who, through old age, and bodily infirmities, are rendered unable to support themselves by labour, and in order to raise a fund for their future maintenance, have agreed to sell their lands whereon they live in the county of Southampton, containing about three hundred acres, to a certain William Bennet, for twenty shillings per acre, the full value thereof; but no legal conveyance can be made for the same without the aid and direction of the legislature, and it being also represented that upon the death of the said five Indians, the whole of that particular tribe will be extinct:

II. *Be it therefore enacted*, That John Taylor, Edwin Gray, and John Thomas Blow, gentlemen, are appointed trustees for the said Indians, and that they, or any two of them, shall, and they are hereby required and empowered, upon the said William Bennett's giving bond and sufficient security, to be approved of by the court of the said county, for the amount of the purchase money, to join with the said Indians, or the major part of them, in conveying the said land to the said William Bennet in fee. The said trustees, or the survivors or survivor of them, shall annually apply the interest of the purchase money, if sufficient, if not, five pounds out of the principal, for the maintenance and support of each of the

said Indians, so long as there be any of the said tribe living; and upon their death, and the said tribe becoming extinct, the said trustees, or the survivors or survivor of them, shall thereupon pay so much of the purchase money and interest, as shall remain unapplied, into the public treasury.

CHAP. XCVI.

An act concerning the collection of the Taxes due in the county of Monongalia, for the year 1783.

I. WHEREAS it hath been represented to this present general assembly, that the sheriff of the county of Monongalia, neglected to give bond and security for the collection of the taxes in the year one thousand seven hundred and eighty three, and the same remain now due and uncollected from the inhabitants thereof,

Certain taxes due in Monongalia, how collected.

II. *Be it therefore enacted*, That the present sheriff of the said county, upon giving bond and security in the court thereof, in the penalty required by law for collectors, shall be, and he is hereby vested with as full power and authority to collect and distrain for the taxes due in the said county for the said year one thousand seven hundred and eighty three, as if he had been sheriff thereof, at the time they were payable; and the said sheriff is hereby allowed until the first day of March, one thousand seven hundred and eighty-eight, to compleat the collection of the taxes in the said county, as well for the year one thousand seven hundred and eighty three, as those now due; and if he shall fail to make payment thereof into the public treasury, on or before the first day of May, in the same year, it shall and may be lawful for the solicitor general to move for judgment against him at the next general court, or any session of the said court subsequent thereto. The said sheriff shall in all cases respecting the collection of the said taxes, be entitled to the same emoluments and subject to the like penalties and damages as directed for sheriffs and collectors by the several laws for collecting the revenue of this state.

CHAP. XCVII.

An act incorporating the trustees of the Winchester academy.

Winchester
academy in-
corporated.

I. *BE it enacted by the General Assembly, That* it shall be lawful for those persons, or their heirs, who shall contribute the sum of five pounds each to the use of the Winchester academy, or a majority of them, to meet at the said academy on the first Monday in February annually, and then and there elect by ballot, twelve fit and able men to serve and act as trustees of the said academy, whose authority shall continue for one year, and until others are chosen in their stead, and no longer, except such of them as shall be re-elected. The said trustees so elected, and those thereafter to be elected, and their successors for ever, are hereby made a body corporate and politic by the name of the trustees of the Winchester academy, and by the said name to have perpetual succession, with capacity to purchase receive and possess lands and tenements, goods and chattels, either in fee or any lesser estate therein, and the same to grant, let, sell, or assign, and to plead and be impleaded, prosecute, and defend, all causes in law or equity. The said trustees, or a majority of them, when assembled, shall have power to make such bye-laws and ordinances, as they shall think best for the good government of the said academy; provided such bye-laws and ordinances shall not be inconsistent with the laws and constitution of this commonwealth. In case of vacancy by death or otherwise, of any one or more of the trustees, within the year, the same shall be supplied by a majority of the remaining trustees.

CHAP. XCVIII.

An act authorising the courts of the counties of Norfolk, Princess-Anne, and borough of Norfolk, to appoint inspectors of lumber.

Inspectors of
lumber, in
Norfolk coun-
ty, Princess-
Anne, and

I. *BE it enacted by the General Assembly, That* the courts of the counties of Norfolk and Princess Anne,

and borough of Norfolk, shall, and they are hereby empowered to appoint so many inspectors of lumber in their respective jurisdictions, as they shall deem necessary. And the inspectors so to be appointed, shall, before they enter on the execution of their office, give bond and security in the sum of three hundred pounds, for the faithful performance of the duties of their office, and shall moreover take the following oath. "I do swear that I will well and truly demean myself as inspector of lumber, without favour affection, or partiality: So help me God." And the inspectors to be appointed by virtue of this act, shall in all cases be governed by the following regulations, that is to say: All drawn white oak hogshead staves, shall not be less than forty-two inches long, three inches wide, and three quarters of an inch thick, when green, and five eighths of an inch if seasoned; white oak hogshead heading shall be twenty eight, thirty, and thirty-two inches in length, with a due proportion of each lengths, seven eighths of an inch thick when green, and three quarters of an inch if seasoned; the staves and heading aforesaid to be without sap; red oak hogshead staves shall not be of less dimensions than the white oak, aforesaid; rough hogshead staves shall be at least forty two inches long three and a half inches wide, and one inch thick; barrel staves shall be at least thirty-two inches long, three and a half inches wide, and three quarters of an inch thick; pipe staves shall be at least four feet and a half long, three inches wide, and one inch thick; shingles shall not be less than eighteen inches long, three and a half inches wide, and half an inch thick at the butt, and all plank, scantling, and ranging timber, shall be sound and have square edges, and it shall not be lawful for any master, commander, or skipper of a vessel, lying in any port of Elizabeth river, to receive on board his ship or vessel for exportation, any species of lumber enumerated in this act, without a note or certificate from some inspector of lumber, that the same has been duly inspected and passed; and the inspectors are hereby directed to give such note or certificate to the skipper of any small craft lading any such lumber, specifying when and where inspected, for whom, and the name of the ship or vessel exporting the same; and the naval officer of the district of Elizabeth river, is hereby charged and directed not to suffer

Norfolk Borough appointed.

any vessel to clear from his office, unless the master, commander or skipper of such vessel, shall produce inspectors notes or certificates for all lumber which he means to clear out, and shall also make oath that he hath no lumber on board, but what is particularly entered in his manifest; any master, commander, or skipper of a vessel, who shall receive on board his vessel for exportation, any lumber herein enumerated, without first obtaining the inspectors note or certificate for the same, shall forfeit the lumber so taken on board, and twenty pounds current money, to be recovered by action of debt before any court of record within this commonwealth; one half of which fine shall be to the use of the person suing for the same, the other half to the use of the commonwealth. The inspectors of lumber shall be entitled to demand and receive the following fees: For all hogshead staves and heading, one shilling and six pence per thousand; for all pipe staves, two shillings per thousand; for all barrel staves, one shilling per thousand; for all shingles, four pence per thousand; for all plank and scantling, three shillings and four pence per thousand; and for all ranging timber, two shillings and six pence per thousand, and no more; to be paid by the person offering the same for inspection, and the inspectors to be appointed by virtue of this act, shall be continued in office during good behaviour. This act shall commence and be in force from and after the first day of May next.

CHAP. XCIX.

An act for establishing a town on the lands of James Wilkinson, in Fayette county, and a ferry across Kentucky river.

Town of
Frankfort, in
Fayette
county, Ken-
tucky, esta-
blished.

1. *Be it enacted by the General Assembly, That one hundred acres of land in the county of Fayette, the property of James Wilkinson, which have been laid off*

into lots and streets, shall be vested in Caleb Wallace, Thomas Marshall, Joseph Crocket, John Fowler, junior, John Craig, Robert Johnston, and Benjamin Roberts, (of Jefferson) gentlemen, trustees, and shall be established a town by the name of Frankfort. The said trustees, or a majority of them, shall within six months after passing of this act, sell at public auction, all the lots within the said town, which have not been heretofore disposed of by the said James Wilkinson, advertising the time and place of such sale at the door of the courthouse of the said county of Fayette, on two successive court days. The purchaser shall hold the said lots respectively, subject to the condition of building on each a dwelling house, sixteen feet square, with a brick or stone chimney, to be finished fit for habitation within two years from the day of sale; and the said trustees, or a major part of them, shall convey the said lots to the purchasers in fee, subject to the condition aforesaid, and pay the money arising therefrom to the said James Wilkinson, or his legal representatives; the said trustees, or a major part of them, shall have power to settle all disputes concerning the bounds of the said lots, and to establish such regulations for the regular building of houses thereon, as to them shall seem best. In case of the death, removal out of the county, or other legal disability, of any one or more of the said trustees, it shall be lawful for the remaining trustees to supply such vacancy; and the persons so chosen, shall have the same power as the trustees appointed by this act. The purchasers of the said lots, so soon as they shall have built upon and saved the same according to the conditions of their respective deeds of conveyance, shall enjoy all the privileges which the inhabitants of other towns in this state, not incorporated, hold and enjoy. If the purchaser of any lot shall fail to build thereon within the time before limited, the said trustees, or a major part of them, may thereupon enter into such lot, and sell the same again, and apply the money for the benefit of the inhabitants of the said town.

II. *And be it further enacted*, That a public ferry shall be constantly kept across the Kentucky river, from the lands of the said James Wilkinson, in the town of Frankfort, to the opposite shore, and the rates for passing the same be as followeth: For a man, four

Ferry established across Kentucky river at Frankfort.

pence, and for a horse the same; and for the transportation of tobacco, wheel carriages, cattle and other beasts, the ferry keeper may demand and take the same rates as are allowed by law at other ferries. If the ferry keeper shall demand or receive from any person or persons whatsoever, any greater rates than are hereby allowed, he shall for every offence, forfeit and pay to the party grieved, the ferriage demanded or received, and ten shillings; to be recovered with costs before a justice of the peace of the county where the offence shall be committed.

CHAP. C.

An act for incorporating the Academy in the town of Alexandria.

Academy, in Alexandria, incorporated. I. FOR incorporating the academy in the town of Alexandria, "Be it enacted by the General Assembly," That it shall be lawful for those persons, or their respective heirs, who shall or may have contributed the sum of five pounds each, to the use of the said academy, or a majority of them, to meet at the said academy on the second Monday in April annually, and then and there elect by ballot, thirteen fit and able men to serve and act as trustees of the said academy, whose authority shall continue for one year, and until others are chosen in their stead, and no longer, except such of them as shall be re-elected. The said trustees so elected, and those hereafter to be elected, and their successors for ever, are hereby made a body corporate and politick, by the name of the Trustees of the Alexandria Academy. They shall have power and capacity to purchase, receive and possess, lands and tenements, goods and chattels, either in fee, or any lesser estate therein; and the same to grant, let, sell or assign, and to plead and be impleaded, prosecute and defend all causes in law or equity. The said trustees or a majority of them, when assembled, shall have power to make such bye-laws and ordinances as they shall think best for the good government of the said academy.

my, and to perform and do any thing respecting the property vested therein; provided such bye-laws and ordinances shall not be inconsistent with the laws and constitution of this commonwealth. They shall choose a president and secretary out of their own body; and in case of vacancy, by death or otherwise, of any one or more of the said trustees within the year, the same shall be supplied by a majority of the remaining trustees.

II. *Provided always, and be it further enacted*, That the first annual election of the said trustees shall not take place, or be made, until the year one thousand seven hundred and eighty-eight; and that in the mean time, and until such election be made, George Washington, William Brown, David Stewart, John Fitzgerald, Charles Lee, William Baker, Isaac S. Keith, Samuel Hanson, James Hendricks, William Hartshorne, Josiah Watson, Benjamin Dulany, and Charles Simms, gentlemen be, and they are hereby constituted trustees of the said academy, with the same powers and authority to all intents and purposes as is given by this act to those who shall hereafter be elected trustees.

CHAP. CI.

An act for dividing the county of Harrison.

I. *BE it enacted by the General Assembly*, That from and after the first day of May one thousand seven hundred and eighty seven, the county of Harrison shall be divided into two distinct counties, that is to say, so much of the said county lying on the south-east of the following lines, beginning at the mouth of Sandy creek, thence up Tyger's Valley river to the mouth of Buchanan river; thence up the said river including all the waters thereof; thence down Elk river including the waters thereof to the Greenbrier line, shall be one distinct county, and called and known by the name of Randolph; and the residue of the said county shall retain the name of Harrison. A court for the said county

Harrison
county divid-
ed and Ran-
dolph formed
Boundaries.

Court days.

of Randolph, shall be held by the justices thereof, on the fourth Monday in every month after the said division shall take place, in such manner as is provided by law for other counties, and shall be by their commissions directed. The justices to be named in the commission of the peace for the said county of Randolph, shall meet at the house of Benjamin Wilson, in Tyger's valley, in the said county, upon the first court day, after the said division shall take place, and having taken the oaths prescribed by law, and administered the oath of office to, and taken bond of the sheriff, according to law, proceed to appoint and qualify a clerk, and fix upon a place for holding courts in the said county, at or as near the centre thereof as the situation and convenience will admit of; and thenceforth the said court shall proceed to erect the necessary public buildings at such place, and until such buildings be completed, to appoint any place for holding courts as they may think proper. *Provided always*, That the appointment of a place for holding courts, and of a clerk, shall not be made unless a majority of the justices of the said county be present, where such majority shall have been prevented from attending by bad weather, or their being at the time out of the county, in such cases the appointment shall be postponed until some court day when a majority shall be present. The governor, with advice of the council, shall appoint a person to be first sheriff of the said county, who shall continue in office during the term, and upon the same conditions, as is by law appointed for other sheriffs. It shall be lawful for the sheriff of the said county of Harrison to collect and make distress for any public dues or officers fees, which shall remain unpaid by the inhabitants thereof at the time such division shall take place, and shall be accountable for the same in like manner as if this act had not been made. The court of the said county of Harrison shall have jurisdiction of all actions and suits in law or equity, depending before them at the time of the said division, and shall try and determine the same, issue, process, and award execution thereon.

II. *And be it further enacted*, That the court of the said county of Harrison, shall account for and pay to the said county of Randolph, all such sums of money as shall or may be paid by the inhabitants of the said county of Randolph, towards defraying the expence of

erecting a courthouse and other public buildings in the said county of Harrison. In all elections of a senator, the said county of Randolph, shall be of the same district with the said county of Harrison.

CHAP. CII.

An act directing the sale of lands in the towns of Louisville and Harrodsburg, and for other purposes.

I. *BE it enacted by the General Assembly, That* Richard Clough Anderson, William Taylor, Robert Brackenridge, David Meriwether, John Clarke, Alexander Scot Bullit, and James Francis Moore, gentlemen, are hereby constituted commissioners for the following purposes, that is to say, they or a majority of them, shall have power, and are required to demand and receive from the trustees of the town of Louisville, the amount of the sales of lots made by them, and upon refusal or neglect to pay the money, to institute one or more suits in their names, and the same to prosecute to recovery. The said commissioners, or a majority of them, shall sell and convey the lands in the said town remaining unsold, by the said trustees, and apply the money arising therefrom, as well as the monies by them received for the former sales, after deducting the necessary charges of surveying and laying off the said lands, in the first place to the payment of what shall be due on the mortgage from John Connolly to John Campbell and Joseph Simon, and the surplus also to pay to the said Campbell and Simon, for and on account of six hundred and eight pounds three shillings and two pence half penny, together with legal interest on five hundred and seventy seven pounds three shillings, part thereof from the fourth day of June, one thousand seven hundred and seventy-six, due to the said Campbell and Simon from Alexander M'Kee.

Lands in Louisville & Harrodsburg in Kentucky, to be sold & proceeds appropriated to pay ment of mortgage, from John Connolly, to John Campbell, & Joseph Simon, and a balance due to Alexander M'Kee.

II. *And be it further enacted, That the trustees of* the town of Harrodsburg, shall, and they are hereby *of Louisville.*

directed, to sell, as soon as may be, so many lots in the said town, as will raise a sum sufficient to pay the balance due to the said Campbell and Simon, either from the said Connolly or Alexander M'Kee, after deducting what shall be paid them, out of the sales of the lands in the town of Louisville, as aforesaid, and to apply such sum accordingly. The said commissioners are hereby constituted trustees of the said town of Louisville, in the room of those appointed by the act for establishing the said town, and shall have the same power, and authority, to all intents and purposes as the former trustees had.

CHAP. CIII.

An act to establish a town, on the lands late the property of Benjamin Logan, in the county of Lincoln, and to fix the place of holding courts therein.

Town of Stanford in Lincoln county Kentucky established.

I. WHEREAS it is represented to this present general assembly, that Benjamin Logan hath given and conveyed to the justices of the county court of Lincoln, twenty-six acres of land, which have been by the said court laid off into lots with convenient streets, and disposed of, reserving as much ground as will be sufficient for the purpose of erecting thereon a courthouse and prison, and that it would be of public advantage were the said lots established a town, and courts for the said county held therein:

II. *Be it therefore enacted*, That the said twenty-six acres of land, so laid off into lots and streets, shall be, and they are hereby established a town, by the name of Stanford, and that Benjamin Logan, John Logan, William Montgomery, Henry Pauling, Isaac Shelby, Walker Baylor, and Alexander Blane, gentlemen, be trustees of the same, who, or a majority of them, are authorised to make such rules for the regular building therein, as to them shall seem most convenient, and to

settle and determine all disputes about the bounds of the said lots. In case of the death, resignation, removal out of the county, or other legal disability, of any one or more of the said trustees, the remaining trustees shall chuse others in their stead, who shall have the same power and authority as any other in this act particularly appointed. So soon as the owners of lots in the said town shall have built thereon a dwelling house sixteen feet square, with a brick or stone chimney, such owner shall have and enjoy the same privileges as the freeholders and inhabitants of other towns in this state, not incorporated, hold and enjoy. The court of the said county of Lincoln, shall proceed to erect a court house and prison on the land by them set apart for that purpose in the said town of Stanford, and when the same shall be completed courts for the said county shall thenceforth be held at the said place.

CHAP. CIV.

An act to amend the act, intituled An act for surveying and apportioning the lands granted to the Illinois regiment, and establishing a town within the said grant.

I. *BE it enacted by the General Assembly,* That James Francis Moore, Alexander Brackenridge, Robert Brackenridge, Richard Taylor, Andrew Heth, Richard Terrell, and William Croghan, gentlemen, shall be and they are hereby constituted commissioners, in addition to those appointed by an act, intituled “An act for surveying and apportioning the lands granted to the Illinois regiment, and establishing a town within the said grant.” The said board of commissioners, or any seven of them, shall have power, and are hereby authorised to settle and determine all claims to land under the said act heretofore received, as well as all such as shall be exhibited to them before the first day

Additional
commission-
ers for sur-
veying and
apportioning
lands granted
the Illinois re-
giment.

Register to issue patents for the lands.

Claimant to pay fees to commissioners.

of January, one thousand seven hundred and eighty-eight, and to approve and allow or reject the same, as to them shall seem just and right. The register of the land office shall immediately, after the passing of this act, issue a patent to the said commissioners for the lands contained in the said grant, without demanding a fee for the same. The commissioners shall demand and receive from every person who shall be allowed a portion of the said land before they shall execute a deed, his respective proportion of the fees payable to the register of the land office for the original grant; and if any person shall fail to make application to the commissioners for a deed, and pay such proportion as aforesaid, within eighteen months after the passing of this act, his right to the lands allowed him shall be forfeited.

Limitation.

II. *Provided always, and it is further enacted*, That the said commissioners, or a majority of them, shall have power to extend the time herein fixed, for each claimant to pay his proportion of the original grant to the first day of September, one thousand seven hundred and eighty-nine, and no longer.

CHAP. CV.

An act to establish a town on the lands of John Lynch, in the County of Campbell.

Town of Lynchburg, in Campbell county, established.

I. *BE it enacted by the General Assembly*, That forty-five acres of land, the property of John Lynch, and lying contiguous to Lynch's ferry, in the county of Campbell, are hereby vested in John Clarke, Adam Clement, Charles Lynch, John Callaway, Achilles Douglass, William Martin, Jesse Burton, Joseph Straton, Micajah Moorman, and Charles Brooks, gentlemen, trustees, to be by them, or any six of them, laid off into lots of half an acre each, with convenient streets, and established a town by the name of Lynchburg.—The said trustees, or any six of them, shall proceed to

sell the said lots at public auction, for the best price that can be had, the time and place of which sale shall be previously advertised for one month in the Virginia Gazette; the purchasers to hold the said lots respectively, subject to the condition of building on each a dwelling house sixteen feet square at least, with a brick or stone chimney, to be finished fit for habitation within three years from the day of sale; and the said trustees, or any six of them, shall, and they are hereby empowered, to convey the said lots to the purchasers thereof in fee simple, subject to the condition aforesaid, and pay the money arising from the sale thereof to the said John Lynch, or his legal representatives: *Provided always*, That nothing herein contained shall be construed to alter or affect the right or interest of the said John Lynch in and to the lots on which he hath erected buildings, and one square containing two acres, in such part of the said town as he may choose. The said trustees, or any six of them, shall have power from time to time to settle and determine all disputes concerning the bounds of the lots, and to establish such rules and orders for the regular building of houses thereon, as to them shall seem best and most convenient. And in case of the death, removal out of the county, or other legal disability, of any one or more of the said trustees, it shall be lawful for the surviving or remaining trustees, to elect and choose so many other persons in the room of those dead or disabled as shall make up the number. The trustees so elected, shall be vested with the same power and authority as those particularly named in this act. The purchasers of lots in the said town, so soon as they shall have built upon and saved the same, according to their respective deeds of conveyance, shall then be entitled to, and have and enjoy, all the rights, privileges, and immunities, which the freeholders and inhabitants of other towns, not incorporated, hold and enjoy. If the purchaser of any lot shall fail to build thereon within the time before limited, the said trustees, or a major part of them, may thereupon enter into such lot and sell the same again, and apply the money for the benefit of the inhabitants of the said town.

CHAP. CVI.

An act to establish a Public Ferry, a Town, and an Inspection of Tobacco, on the lands of John Curd, in the county of Mercer.

I. WHEREAS it has been represented to this present general assembly, that it would be of public utility to establish a ware-house for the reception and inspection of tobacco on the lands of John Curd in the county of Mercer;

II. *Be it therefore enacted*, That an inspection of tobacco shall be, and the same is hereby established, on the land of the said John Curd, lying at the mouth of Dick's river in the county of Mercer, to be called and known by the name of Curd's warehouse. There shall be allowed and paid annually to each of the inspectors at the said warehouse, the sum of thirty pounds for their salary.

Inspection of tobacco, on lands of John Curd, in Mercer county, established.

III. *Provided always, and be it further enacted*, That if the quantity of tobacco inspected at the said warehouse shall not be sufficient to pay the usual charges and the inspectors salaries, the deficiency shall not be paid by the public.

IV. *And be it further enacted*, That twenty acres of land the property of the said John Curd, lying at the confluence of the Kentuckey and Dick's river, in the said county of Mercer, be, and they are hereby vested in John Jouet, Gabriel Madison, James Hoard, Samuel Pryor, Alexander Robertson, Robert Mosby, James Overton, Harry Innes, Joseph Crocket, and William Lewis, gentlemen, trustees, to be by them, or a majority of them laid out into lots of half an acre each, with convenient streets, and established a town, by the name of New Market. So soon as the said twenty acres of land shall be laid off into lots and streets, the said trustees, or the major part of them, shall proceed to sell the same at public auction, for the best price that can be had, the time and place of which sale shall be previously advertised for three months at the courthouse of each of the said counties of Mercer, Lincoln, and Fayette. The purchasers to hold the said lots re-

Town of New Market, in Mercer county in Kentucky, established.

spectively, subject to the condition of building on each a dwelling house, containing sixteen feet square at the least, with a brick or stone chimney, to be finished fit for habitation within two years from the day of sale; and the said trustees, or the major part of them, shall convey the said lots to the purchasers in fee, subject to the condition aforesaid, and pay the money arising from the sale thereof, to the said John Curd, or his legal representatives. The said trustees, or the major part of them, shall have power, from time to time, to settle and determine all disputes concerning the bounds of the lots, and to establish such rules and orders for the regular building of houses thereon, as to them shall seem best. In the case of the death, removal out of the county, or other legal disability, of any one or more of the said trustees, it shall be lawful for the remaining trustees to elect and chuse other persons in the room of those dead, or disabled, who shall be vested with the same powers, and authority as any other in this act particularly appointed. The purchasers of the said lots, so soon as they shall have built upon and saved the same, according to the conditions of their respective deeds of conveyance, shall be entitled to, and have and enjoy, all the rights, privileges, and immunities, which the freeholders and inhabitants of other towns in this state, not incorporated, hold and enjoy. If the purchaser of any lot shall fail to build thereon within the time before limited, the said trustees, or a major part of them, may thereupon enter into such lot, and sell the same again, and apply the money for the benefit of the inhabitants of the said town.

V. *And be it further enacted*, That a public ferry shall be constantly kept at the following place, and the rates for passing the same, as followeth, that is to say; from the land of the said John Curd, in the county of Mercer, across Kentuckey river, to the opposite shore, for a man four pence, and for a horse the same; and for the transportation of wheel carriages, tobacco, cattle, and other beasts, at the place aforesaid the ferry keeper may demand and take the same rates as are by law allowed at other ferries. If the ferry keeper shall demand or receive from any person or persons whatsoever, any greater rates than are hereby allowed, he shall for every offence forfeit, and pay to the party grieved, the ferriage demanded or received, and ten

Ferry from
land of John
Curd, across
Kentucky ri-
ver establish-
ed.

shillings, to be recovered with costs before a justice of the peace of the county where the offence shall be committed.

CHAP. CVII.

An act to establish a town at the courthouse of the county of Accomack.

Town of
Drummond,
in Accomack,
established.

BE it enacted by the General Assembly, That ten acres of land, the property of Richard Drummond, adjoining to Accomack courthouse, shall be, and the same are hereby vested in John Cropper, jun. Thomas Evans, John Teacle, Thomas Bailey, and Thomas Curtis, gentlemen, trustees, to be by them, or any three of them, laid out into lots of half an acre each, with convenient streets, and together with twenty other half acre lots contiguous thereto and improved, shall be, and the same are hereby established a town, by the name of Drummond. As soon as the said ten acres of land shall be so laid off into lots and streets, the said trustees or the major part of them, shall proceed to sell the lots at public auction, for the best price that can be had, the time and place of which sale shall be previously advertised for two months at the courthouse of each of the counties of Accomack and Northampton; the purchasers to hold the said lots respectively, subject to the condition of building on each a dwelling house, containing sixteen feet square at least, with a brick or stone chimney, to be finished fit for habitation within two years from the day of sale; and the said trustees or the major part of them, shall, and they are hereby empowered, to convey the said lots to the purchasers in fee, subject to the condition aforesaid, and pay the money arising from the sale thereof to the said Richard Drummond, or his legal representatives. The said trustees, or a majority of them, shall have power from time to time, to settle and determine all disputes concerning the bounds of the said lots, and to settle such rules and orders for the regular building of houses

thereon, as to them shall seem best; and in case of the death, removal out of the county, or other disability, of any of the said trustees, it shall be lawful for the others to supply such vacancy, and the trustees so chosen shall, to all intents and purposes, be vested with the same powers as those particularly named in this act. The purchasers of the lots in the said town, so soon as they shall have built upon and saved the same according to the conditions of their respective deeds, shall be intitled to, and have and enjoy, all the rights, privileges, and immunities, which the freeholders and inhabitants of other towns in this state, not incorporated, hold and enjoy. If the purchaser of any lot shall fail to build thereon, within the time before limited, the said trustees or a majority of them may thereupon enter into such lot and sell the same again, and apply the money in any manner for the benefit of the said town.

CHAP. CVIII.

An act for establishing several public ferries, and for other purposes.

I. *BE it enacted by the General Assembly*, That public ferries shall be constantly kept at the following places, and the rates for passing the same as hereafter mentioned, that is to say: From the land of Thompson Mason, deceased, in the county of Loudoun, across Potowmack river, to the land on the opposite shore, in the state of Maryland, the price for a man six-pence, and for a horse the same; from the land of Robert Parker, in the county of Hampshire, across the South branch of Potowmack river, to his land on the opposite shore, the price for a man three pence three farthings, and for a horse the same; from the land of George Jackson, in the county of Harrison, across Elk creek, to his land on the opposite shore, the price for a man two pence, and for a horse the same; from the land of John Paucake, in the county of Hampshire, across the South branch of Potowmack to the land of Jacob Earsom, on the opposite shore, the price for a

New ferries
established,
and others
discontinued.

man three pence three farthings, and for a horse the same; from the land of Isaac Parsons, in the said county of Hampshire, across the South branch of Potowmack, to his land on the opposite shore, the price for a man three pence three farthings, and for a horse the same; from the land of John Wickwire, in the county of Harrison, across Tyger's Valley river, to his land on the opposite shore the price for a man three pence, and for a horse the same; from the land of Benjamin Rankin, in the county of Berkeley, across Shenandoah river, to the land of George William Fairfax, on the opposite shore, the price for a man three pence three farthings, and for a horse the same; from the land of Peter Harbout, in the county of Loudoun, across Goose creek, to the land of doctor Wilson Selden, on the opposite shore, the price for a man three pence, and for a horse the same; from the land of Philip Aylett, at the place called Aylett's warehouse, across Mattapony river, to the opposite shore, in the county of King and Queen, the price for a man three pence, and for a horse the same; from the land of Edward Snicker's at William's Gap on the one side of Shenandoah river to the land of said Snicker's, on the opposite shore, the price for a man three pence three farthings, and for a horse the same; and from the land of John Anderson, in the county of Greenbrier, across Greenbrier river, to his land on the opposite shore, the price for a man three pence three farthings, and for a horse the same; and for the transportation of wheel carriages, tobacco, cattle, hogs, and sheep, at the places aforesaid, the ferry keepers may respectively demand and take the same proportionate rates as are by law established at other ferries. If any ferry keeper shall demand or receive from any person or persons whatsoever, any greater rates than are hereby allowed for the ferriage or carriage of any thing, he shall, for every such offence, forfeit and pay to the party grieved, the ferriages demanded or received, and ten shillings, to be recovered with costs, before a justice of the peace of the county where the offence shall be committed. And whereas by an act passed in the year of our Lord one thousand seven hundred and eighty, it was enacted, that the ferry established from the land of the late Henry Batte, in the county of Henrico, to the land of Alexander Rolling, in the county of Prince George, should be

discontinued, and among other things, a ferry should be kept from the upper end of the land of Thomas Batte, the younger, in the county of Chesterfield, across Appamatox river, to the lot of land the property of William Gilliam, in the town of Broadway, and county of Prince George: And whereas there is an impassable swamp leading to the said landing of Thomas Batte, the younger, through which no attempt has yet been made to make a causeway, by which means the public have been deprived of the convenience of a ferry at the said place as by law established; but nevertheless a private ferry has been set up by Thomas Batte, the elder, from his lauds adjoining the lands of Thomas Batte, the younger, which has been continued by the said Thomas Batte, the elder, for several years:

II. *Be it therefore enacted*, That the said ferry now kept by Thomas Batte, the elder, shall be continued and established as a ferry until the said causeway, through the swamp of Thomas Batte, the younger, shall be made passable to the landing, and a good and sufficient boat shall be provided by the said Thomas Batte, the younger, from which time the said ferry shall be kept from his land to the town of Broadway, as if this act had not passed.

III. *And be it enacted*, That until that time, Thomas Batte, the elder, shall be entitled to receive for ferriage at the rate of six pence for the transportation of every man, and six pence for every horse; and for every coach, chariot, or waggon, and the driver thereof, the same as for four horses; for every cart or four wheel chaise or chair, the same as for two horses; for every hogshead of tobacco, as for one horse; for every hog, sheep, goat, or lamb, one fifth part of the ferriage of one horse.

IV. *And be it further enacted*, That the ferry known by the name of Temple's ferry, across Mattaponi river, be henceforth discontinued.

CHAP. CIX.

An act to amend the act for the appointment of Trustees for the town of York.

Additional trustees appointed for the town of York.

BE it enacted by the General Assembly, That it shall and may be lawful for the trustees of the town of York, and their successors, by the said name to sue and be sued, implead and be impleaded, in all courts of law or equity.

CHAP. CX.

An act to authorise the trustees of Washington Henry Academy, to raise a sum of money by way of lottery.

Washington Henry academy authorised to raise money by lottery.

BE it enacted by the General Assembly, That it shall and may be lawful for the trustees of the Washington Henry Academy, to raise by way of lottery, a sum of money not exceeding three hundred pounds, to be by them applied in making additions to, and repairing the buildings of the said academy; and for that purpose to appoint managers to superintend and direct the drawing of the same, taking bond with sufficient security from such managers in a reasonable penalty, conditioned for the faithful discharge of the trust.

CHAP. CXI.

An act for appointing Trustees to the Pamunkey Indians.

Trustees to Pamunkey Indians, appointed.

I. WHEREAS it is represented that the trustees for the Pamunkey Indians are all dead, except the honorable Carter Braxton; and the said Indians have

petitioned this assembly to appoint others in their stead:

II. *Be it therefore enacted*, That Drury Ragsdale, James Hill, Thomas Littlepage, James Johnson, the younger, Bernard Moore, William Dandridge Claiborne, Benjamin Temple, Thomas Robinson, Isaac Quarles, and James Ruffin, gentlemen, shall be, and they are hereby constituted trustees for the said Indians, in the room of those who are dead.



CXII.

An act for altering the court-days of certain counties.

BE it enacted by the General Assembly, That from and after the last day of February next, a court for the county of Gloucester shall be held on the first Monday in every month; a court for the county of Hardy shall be held on the Monday next after the first Tuesday in every month; a court for the county of Hampshire shall be held on the Thursday next after the second Tuesday in every month; a court for the county of King William shall be held on the fourth Monday in every month; a court for the county of Harrison shall be held on the third Monday in every month; a court for the county of Orange shall be held on the fourth Monday in every month; a court for the county of Mercer shall be held on the fourth Tuesday in every month; a court for the county of Nelson shall be held on the second Tuesday in every month; a court for the county of Greenbrier shall be held on the last Tuesday in every month; a court for the county of Montgomery shall be held on the first Tuesday in every month; a court for the county of Washington shall be held on the second Tuesday in every month; a court for the county of Russell on the third Tuesday in every month; a court for the county of Henry on the second Monday in every month; a court of Hustings shall be held for the city of Richmond on the fourth Monday in every month; the courts of quarterly sessions in the counties

Court days of certain counties, altered.

of Montgomery, Washington, and Russell, shall in future be held on the several days of holding courts within the said counties in the months of April, June, September, and November; and a court for the county of Lancaster shall be held on the third Monday in every month; any law to the contrary thereof, notwithstanding.

CHAP. CXIII.

An act for vesting the real estate of William Love, deceased, in Marion Love, and her heirs.

Estate of
Wm. Love
vested in Ma-
rion Love.

I. WHEREAS William Love, merchant, late of the county of Stafford, died intestate, and without issue, leaving Marion Love, his widow and relict; and whereas it has been represented to the present general assembly, that the heir at law of the said William Love is an alien, whereby the real estate, whereof, he died seized, is escheatable to the commonwealth, and the said Marion Love having petitioned this assembly that the same may be vested in her:

II. *Be it therefore enacted by the General Assembly,* That the real estate, whereof the said William Love died seized, shall be, and the same is hereby vested in the said Marion Love, and her heirs, in fee simple: Saving nevertheless, the rights, legal and equitable, of all and every person and persons, bodies politic or corporate, except of the commonwealth and those claiming under it, in and to the said real estate, and every part thereof.

CHAP. CXIV.

An act giving further time for improving the navigation between the Great Falls of Potowmack river and Fort Cumberland.

Further time
allowed for

BE it enacted by the General Assembly, That the Potowmack company shall be, and they are hereby al-

lowed, until the seventeenth day of November, one thousand seven hundred and ninety, for making and improving the navigation between the Great Falls and Fort Cumberland; any law to the contrary thereof, notwithstanding. This act to take place as such, on a similar law being passed by the legislature of Maryland, and not otherwise.

improving navigation of Potowmack river.

CHAP. CXV.

An act for completing the revision of the laws.

I. FOR completing the revision of the laws, *Be it enacted by the General Assembly*, That a committee, to consist of three persons, shall be appointed by joint ballot of both houses (two of whom to be a quorum) who shall take into consideration such of the bills contained in the revisal of the laws prepared and reported by the committee appointed for that purpose, in the year one thousand seven hundred and seventy-six, as have not been enacted into laws; shall examine what alterations therein may be rendered necessary, by a change of circumstances or otherwise, and shall make report thereupon to the next meeting of the general assembly, as the said committee shall judge proper.

Revisal of laws, further provision for completing, under the act of 1776.

II. *And be it enacted*, That the said committee shall also take into consideration, all acts of assembly passed since the revisal aforesaid was prepared, and shall have full power and authority to revise, alter; amend, repeal or introduce, all or any of the said laws, to form the same into bills, and report them to the general assembly. And to prevent any delay which may happen in the proceedings of the said committee, by the death or disability of any member thereof;

Power of revisors.

III. *Be it enacted*, That if either of the said members should die, refuse to act, or be disabled by sickness, from proceeding in the said work, it shall be lawful for the remaining members to appoint some other person in his stead, which person so appointed is hereby declared a member of the said committee, in like

Vacancies how supplied

manner as if he had originally been appointed by joint ballot of both houses.

IV. *And be it enacted*, That the said committee shall have power to meet at such times and places as they shall think proper, for the purposes aforesaid; to appoint a clerk for their ease and assistance; and to send for any copies of records to the clerk in whose custody they are, which such clerk is hereby directed forthwith to transmit to them. *Provided*, That such bills to be prepared and reported by the committee to be appointed as aforesaid, shall be of no force or authority until they shall have gone through their several readings in both houses of assembly, and been passed by them in such manner and form, as if the same had been originally introduced without the direction of this act.

V. And that the operation of each and all of the acts passed at the present general assembly, of the following titles, to wit, "An act forbidding and punishing affrays—An act for licensing counsel attorneys at law and proctors—An act against conspirators—An act concerning partitions and joint rights and obligations, An act for recovering demands of a small value in a summary way—An act providing that an infant may sue by his next friend—An act for speedy recovery of money due from certain persons to the public—An act providing that actions popular prosecuted by collusion shall be no bar to those which be pursued with good faith—An act for preventing vexatious and malicious prosecutions, and moderating amercements—An act concerning treasons, felonies, and other offences committed out of the jurisdiction of this commonwealth—An act for punishing disturbers of religious worship and sabbath breakers—An act prescribing the punishment of those who sell unwholesome meat or drink, An act to encourage the apprehenders of horse-stealers—An act declaring when the death of persons absenting themselves shall be presumed—An act for reforming the method of proceeding in writs of right—An act directing the method of trying slaves charged with treason or felony—An act for the suppression and punishment of riots, routs, and unlawful assemblies—An act to punish bribery and extortion—An act against conveying or taking pretended titles—An act prescribing the method of protesting inland bills of exchange,

Operation of
certain acts
assembly of
1786, suspen-
ded,

and allowing assignees of obligations to bring actions thereupon in their own names—An act providing a mean to help and speed poor persons in their suits—An act against usury—An act directing the method of proceeding against and trying free persons charged with certain crimes—shall be suspended until the first day of July next.

VI. *And be it enacted*, That the act passed at the last session of general assembly, intituled "An act concerning escheators," being rendered superfluous by the subsequent passage of an act, intituled "An act to extend the operation of an act, intituled an act concerning escheators," to the several counties in the Northern Neck, shall be and the same is hereby repealed.

Report of act
concerning
escheators.

AT A
GENERAL ASSEMBLY

BEGUN AND HELD

Edmund Randolph, esqr.
governor.

At the Public Buildings in the City of Richmond, on Monday the fifteenth day of October in the year of our Lord one thousand seven hundred and eighty-seven, and in the twelfth year of the commonwealth.

CHAP. I.

An act to amend the laws of revenue, to provide for the support of civil government, and the gradual redemption of all the debts due by this commonwealth.

[Passed the 1st of January, 1788.]

Preamble.

I. WHEREAS it appears to the present general assembly, upon an accurate examination of the various branches of revenue, and the several demands on the public for the debts and expences of government, that the taxes now levied on the citizens of this commonwealth are heavier than the circumstances of the people will admit of, without suffering great distress, and it appearing also that some of the taxes may be reduced and sufficient provision made. Nevertheless, for the support of civil government, and the punctual payment of the annual interest of all the debts due by the state, and a certain sum may also be applied in discharge of part of the principal of such debts; it hath therefore become necessary to amend the laws of reve-

me in such manner as will give relief to the people and best tend to strengthen and confirm the public credit.

II. *Be it therefore enacted*, That whereas by an act, intituled, "An act to revive and amend an act for redeeming certain certificates." the following taxes are imposed, to wit: Twenty shillings for every hundred pounds, and so in proportion for a greater or lesser sum of the valuation of all lands and lots as the same is charged under the act "For equalizing the land tax," also a tax of ten shillings to be paid by every free male person above the age of twenty-one years, who shall be a citizen of this commonwealth, and also the like sum of ten shillings upon all slaves above the age of sixteen years, to be paid by the owners thereof, except such free persons and slaves as shall be exempted by the respective county courts through age or infirmity, also two shillings for every horse, mare, colt, and mule; also five shillings per wheel for all coaches, chariots, phaetons, four wheeled chaises, stage waggon, for riding carriages, chairs, and two wheeled chaises; also fifteen pounds for every billiard table, and four pounds for every ordinary license over and above the taxes imposed by any other act or acts of assembly, which taxes have amounted to the nett annual sum of one hundred and sixty-four thousand two hundred and sixty-six pounds, three shillings and eight pence, and the meaning and intention of the said act being principally to provide for the redemption of the certificates granted for militia service and for property impressed or taken for public service, for calling in of which certificates no other mode hath been provided; and whereas but a small amount of the said certificates will remain in the hands of the people after the arrearages of the said taxes shall be paid into the public treasury, and some other mode may be adopted for calling in the balance of the said certificates in a manner more convenient than by continuing the collection of the said taxes in manner prescribed by the said act.

Former taxes recited, for redeeming certain certificates

III. *Be it therefore enacted*, That the act, intituled "An act for calling in and redeeming certain certificates," shall be and the same is hereby repealed.

Repeal of that act.

IV. And that adequate provision may be made for the redemption of the public securities, and for aiding the sinking fund, *Be it farther enacted*, That from and after the first day of March next, all such goods

Additional duties on spirituous liquors, wines, and

goods import ed, and merchandise as are herein after mentioned, which shall be imported or brought into this state, by land or water, shall be subject to the duties and imposts hereinafter mentioned, over and above the duties and imposts thereon laid by any other act of assembly, that is to say: Upon every gallon of rum, one shilling; every gallon of other distilled spirituous liquors, one shilling; every gallon of Madeira wine, one shilling and sixpence; every gallon of wines, other than Madeira, one shilling; every gallon of porter, ale, or beer, nine pence; every pound of snuff, one shilling; every pound of manufactured tobacco, one shilling; every pound of loaf or lump sugar three pence; every pound of coffee, three pence; every pound of pepper, six pence; every pound of pimento or allspice, four pence; every pound of dressed leather, six pence; every pound of tanned leather, four pence; every pound of Bohea tea, one shilling; every pound of tea of other quality, two shillings; every hundred weight of cordage, four shillings; every hundred weight of bar iron, four shillings; every hundred weight of iron pots, kettles, or other iron castings, four shillings; every hundred weight of nail rod and bolts, six shillings; every dozen bottles of wine, in bottles commonly called quart bottles, and in that proportion for all wines in bottles, three shillings; every dozen bottles of malt liquors, in bottles commonly called quart bottles, and in that proportion for all bottled malt liquors, two shillings and six pence; upon riding carriages from a foreign port or the manufacture of any foreign country, as follows; every coach, chariot, or post chaise, twenty pounds; every other four wheeled carriage, fifteen pounds; every two wheeled carriage, ten pounds; every clock, five pounds; every dozen of axes, eight shillings; every dozen of hoes, six shillings; every saddle, twelve shillings; every pair of womens or childrens shoes or slippers of stuff or morocco leather, one shilling; every pair of womens silk shoes, two shillings; every pair of mens or womens leather shoes or slippers, one shilling; every pair of boots, six shillings; every pair of boot legs, one shilling and six pence; every dozen packs of playing cards, thirty shillings; every bushel of coals, six pence; every hundred weight of salted beef, except ship stores, twenty shillings; every hundred weight of pork, except ship stores, twenty shillings; every pound of candles, except ship stores,

four pence; every pound of soap, except ship stores, four pence; upon all hats, ten per centum ad valorem; upon all ready made wearing apparel not before enumerated (except gloves and stockings) on all metal coat and waistcoat buttons, on all horse and carriage whips and walking sticks or canes, on all gold or silver lace, ten per centum ad valorem; and upon all goods, wares, and merchandize, whatsoever, not before enumerated, except salt, a duty of three per centum ad valorem. The duties aforesaid shall be paid to the several naval officers, or other persons legally authorised to collect the duties or imposts heretofore payable upon goods, wares, or merchandise, imported or brought into this state; and if any person importing any of the goods before enumerated, shall fail to make due entry thereof within the time by law prescribed, the penalty shall be the same and recovery had in like manner as in the case of persons importing rum and failing to make due entry thereof. The said duties shall be paid in Spanish milled dollars, at the rate of six shillings each, or in other silver or gold coin, at a proportionable value, or may be discharged by the payment of a like sum in any specie certificates or warrants legally issued for any debt due by this state, or by the payment thereof in notes for tobacco given to soldiers for bounties, allowing at the rate of twenty shillings per hundred for such tobacco. Three months credit shall be allowed the owner or importer of the goods, wares, and merchandise herein before enumerated for payment of the duties hereby imposed, on giving bond with security to be approved of by the naval officer with whom such entry is made, which bonds if not paid when the same shall become due, shall be recovered in like manner with bonds granted for the payment of the duties on rum. And if any person chargeable with any of the duties hereby imposed on any of the articles above enumerated shall at any time make payment thereof in specie to any naval officer or collector duly authorised to collect such duties, the person who hath so paid the same or his agent or attorney duly authorised for that purpose, may at any time within sixty days after making such payment, demand and receive of such officer the amount of specie so paid, on tendering to him the like sum in any of the public securities above described, unless the officer to whom such money may have been

Duties how paid.

paid shall have accounted for and paid the same into the public treasury, in which case, the officer who may have collected such duty in specie, shall give to the person who paid the same, or to his agent or attorney duly authorised for that purpose, a certificate thereof, which certificate or other satisfactory proof being adduced to the executive, within sixty days from the time of such payment, it shall and may be lawful for the governor with advice of council, to direct the auditor of public accounts to issue a warrant for the like sum in specie, which the treasurer shall pay out of any money in his hands arising from duties or imposts. *Provided* the person demanding the said payment in specie shall at the same time pay to the treasurer the amount thereof in any of the public securities above described.

Goods ex-
empted from
duty.

V. *Provided always*, That all goods, wares and merchandise above enumerated: of the growth, production or manufacture of any of the United States of America, except distilled spirits extracted from any substance or materials which are not the growth or production of any of the United States of America, shall be exempted from the payment of all duties and imposts hereby imposed. But nothing herein contained shall be construed to prevent or in any manner obstruct or delay the full payment of all arrearages heretofore due under the operation of the said recited act, which arrearages shall be paid, collected and distrained for, and the amount thereof paid into the public treasury, and in all cases the like proceedings shall be had and judgment thereupon awarded in such manner as if this act had not been made.

VI. And whereas since the establishment of the present system of revenue in the sessions of assembly held in October, one thousand seven hundred and eighty-one, various warrants to a considerable amount have been issued by the auditors of public accounts for payment of money due to the public creditors, and sundry votes of the general assembly have also passed for the payment of certain sums therein specified, for the redemption of which warrants and making good such votes, particular branches of the revenue have been from time to time assigned; and some of the warrants so issued have been by law declared receivable in payment of any part of the revenue tax equal to specie, whilst others of the said warrants have been limited to

the payment of some particular branch of the revenue; by which means the several appropriations have been deranged and many of the public creditors have been prevented from receiving payment of their just claims, in such time and manner as was intended by the legislature, and the great variety of such warrants, and the several appropriations of taxes and arrearages of taxes having rendered the present laws of revenue in many instances intricate and complicated, and productive of much embarrassment to the creditors of the public, as well as great perplexity in the accounts of the revenue.

VII. And whereas it is necessary for strengthening the public credit and simplifying the public accounts, that the laws respecting the same shall be amended, and adequate provision made for the redemption of all warrants heretofore issued by the auditors of public accounts, and for making good all votes of the general assembly for the payment of money or tobacco where any of the public funds have been charged with such payments;

VIII. And whereas the arrearages of taxes due for the year one thousand seven hundred and eighty-six and for former years, will be more than sufficient to discharge all such warrants and votes of the general assembly, provided such arrearages shall be so applied; *Be it therefore enacted*, That all arrearages of taxes now due to this commonwealth by the several sheriffs and collectors for the taxes of the year one thousand seven hundred and eighty-six and for all former years which have arisen or become due under the act "For ascertaining certain taxes and duties, and for establishing a permanent revenue," and all arrearages of taxes which have arisen or become due by the several sheriffs and collectors under the act "To amend and reduce the several acts for ascertaining certain taxes and duties, and for establishing a permanent revenue, into one act," or by the several acts amending the same, shall constitute a fund to be called the aggregate fund, and shall be applied to the payment of all such warrants heretofore issued, or which may issue by the auditor of public accounts, on or before the last day of December one thousand seven hundred and eighty-seven, and for all votes of the general assembly for the payment of any sum of money or quantity of

Appropriation of arrearages of taxes.

tobacco, *Provided* such warrants or votes have been charged on any of the branches of revenue arising from the taxes to be collected by the sheriffs or collectors of public taxes under the operation of the aforesaid acts, and shall also be applied to the payment of all such votes for payment of any sum of money or quantity of tobacco, as may pass during the present session of assembly, unless the same shall be otherwise specially provided for.

What war-
rants receiv-
able in taxes,
as specie.

IX. And whereas it will contribute to the convenience of those persons who may be in arrears for taxes, and tend to strengthen the public credit if the warrants coming within the above description shall be declared by law to be receivable by the various sheriffs and collectors of taxes in discharge of the arrearages of the year one thousand seven hundred and eighty-six, or in discharge of the arrearages of any former year; *Be it therefore enacted*, That all warrants heretofore issued, or which may be issued on or before the last day of December, one thousand seven hundred and eighty-seven, by the auditor or auditors of public accounts, to be paid out of the taxes or arrearages of one thousand seven hundred and eighty-six, or of any preceding year; also all warrants so issued within the period aforesaid, for wages or salaries, or arrears of wages or salaries allowed by law to the governor, the members of the privy council, the delegates to congress, the speakers of the senate and the house of delegates, the members of the general assembly, and the officers of every denomination attending thereon, the judges of the high court of chancery, judges of the general court, judges of the court of admiralty, the treasurer, attorney general, auditors for public accounts, solicitor general, clerks to the council, to the treasurer, to the auditors and to the solicitor general, the keeper of the public jail, to the public armourers, and warrants issued to any person for any expences attending the arsenal at the Point of Fork, to the public printers, to the register of the land office, and to all naval officers or searchers for their salaries; also all warrants drawn on the contingent fund, and all warrants for allowance to military pensioners, and the expences of criminal prosecutions, and to apprehenders of horse stealers; also all warrants for interest on the certificates granted the officers and soldiers of the Virginia line, both land and naval, on continental and state es-

establishments, for their arrears of pay and depreciation, the warrants for the interest of the state loan office debt, and the interest due for the certificates granted for the paper money of this state funded, and all warrants granted for the interest on the debts due by the state for slaves executed by legal sentence, and all warrants granted for the payment of money or tobacco lent the public on the requisition of the general assembly in the session held in May, one thousand seven hundred and eighty; such tobacco being previously valued in money under the direction of the executive, and all warrants for money lent the public on the requisitions of Thomas Jefferson, esquire, then governor of this commonwealth, shall be receivable as specie by all sheriffs or collectors of public taxes in payment of all taxes due to this commonwealth for the year one thousand seven hundred and eighty-six, or any former year, under the aforesaid laws of revenue: And every sheriff or collector of such taxes on payment thereof into the public treasury, shall have credit accordingly: and that all doubts may be removed respecting the redemption of any of the warrants above enumerated, the treasurer is hereby directed and required, on application to him made for that purpose, to indorse on the same that any sheriff or collector of public taxes making payment thereof into the treasury, will have credit for the amount thereof, in discharge of any specie tax due for the revenue of one thousand seven hundred and eighty-six, or any former year under the laws aforesaid: But nothing herein contained shall be construed so as to prevent the warrants issued or which may be issued hereafter by the auditor or auditors of public accounts for payment of the salaries of the officers of civil government, and the warrants in like manner issued, or which may be issued for the payment of interest on the certificates granted the officers and soldiers of the Virginia line, both land and naval, on continental and state establishments, for their arrears of pay and depreciation, from being received as heretofore by law directed in payment of any part of the revenue tax now due, or which may hereafter become due, but the same shall be receivable by all sheriffs and collectors of public taxes, and on payment thereof into the treasury every such sheriff or collector shall have credit for the same in like manner as if this act had not been made.

X. And whereas debts are due to certain persons for advances made by them as agents for the state or to those persons with whom such agents or others legally authorised to make contracts have made engagements to pay money or tobacco for property purchased for the use and on account of the public. And whereas also various debts are due for land appropriated for public use by the directors of the public buildings, and for rents of houses contracted for or occupied on public account, and in some cases funds have not been set apart for payment thereof, and in other cases where funds have been charged therewith such funds may not have proved productive;

Certain debts
due from the
public, how
to be paid.

XI. *Be it therefore enacted*, That all debts which may be due to any of the following persons, viz: Thomas Smith, Benjamin Day, David Ross, William Hay, William Armistead, and Duncan Rose, who were agents for this state for providing arms, cloathing, and other necessities, and whose accounts have been settled by the executive, or any persons legally authorised to make such settlement; also all debts due to any persons whatsoever for goods, wares, or merchandise supplied the said agents or either of them on public account, and who have credit for the same on the public books of such agents or either of them shall be paid out of the said aggregate fund:

XII. *Provided*, That where any of the agents aforesaid, or any other person or persons having, or being entitled to have credit on any of the public books of such agents, shall not have made a settlement of such claims or demands with the executive, or with some person or persons legally authorised to make such settlement, the governor, with advice of council, is hereby authorised to cause the same to be fairly settled and adjusted, and to grant a special order to the auditor of public accounts to issue a warrant or warrants for the balances which may be justly due thereon, expressing in such warrant that the same will be received of any sheriff or collector of public taxes in discharge of the arrearages of one thousand seven hundred and eighty six, or of any former year, arising under the laws of revenue before recited. The said fund shall also be charged, and in like manner warrants shall issue by special order of the executive, for all sums of money due by the public for lands appropriated by, the

directors of the public buildings to public purposes, or for rents of houses occupied or contracted for on public account. And where any of the aforesaid debts are due in tobacco, and the value thereof in money hath not been heretofore established, the governor shall take such means as to him with advice of council shall seem proper, to establish the just value in money at which such tobacco ought to be settled, and shall direct the auditor of public accounts to issue warrants for the same accordingly.

XIII. And whereas sundry votes of the general assembly have from time to time passed, and warrants have also been issued by the auditors of public accounts for the payment of certain sums of money or quantities of tobacco for debts due to persons not coming within any of the descriptions aforesaid, and no funds have been assigned for the payment of such votes or of the warrants so issued, *Be it therefore enacted*, That the governor may direct the auditor of public accounts to issue warrants on the aggregate fund in favor of any public creditor whose claims have been settled by any vote of the general assembly, or by warrant from the auditors of public accounts; provided it shall appear to the governor with advice of council proper and necessary, having regard to the nature of the claim, in order to comply with the public engagements to make such arrangement in favour of the person applying for the same.

XIV. And whereas a considerable part of the arrearages of one thousand seven hundred and eighty-six and former years may be expended in the redemption of warrants which may be issued after the last day of December one thousand seven hundred and eighty-seven, and therefore properly chargeable on the revenue for the year one thousand seven hundred and eighty-seven, for which the several sheriffs and collectors are allowed by law to distrain from and after the first day of January one thousand seven hundred and eighty-eight. For remedy whereof and to prevent the several appropriations from interfering with each other to the prejudice of any public creditor, *Be it enacted*, That the treasurer shall keep an account of all warrants issued after the last day of December one thousand seven hundred and eighty seven, which may be paid in discharge of the arrearages of one thousand seven hun-

dred and eighty six, or any former year; and shall draw as much money from the funds appropriated to the redemption of such warrants from the revenue of one thousand seven hundred and eighty seven as will make good the same; and in like manner he shall keep another account of all warrants issued on or before the said last day of December one thousand seven hundred and eighty seven which are paid in discharge of the revenue of one thousand seven hundred and eighty seven, and shall draw as much money from the arrearages of one thousand seven hundred and eighty six, or any preceding year, as will make good the same. All the surplus of the arrearages of one thousand seven hundred and eighty-six, and of all former years, after making good the aforesaid appropriations, shall be applied in aid of the several existing requisitions of congress, and either paid in specie or applied to the procuring of any of the securities of the United States as may to the governor with advice of council seem most necessary for the interest of the state and a compliance with the public engagement.

Taxes in aid
of sinking
fund

XV. And whereas by the act providing a sinking fund passed at the present sessions, the interest of certificates which have been or shall hereafter be received in payment of taxes, are appropriated in aid of the said fund, and there remains a considerable amount in military certificates received for confiscated property the interest of which has not been appropriated, *Be it further enacted*, That the interest arising from and after the first day of January next on all certificates for confiscated property which have been paid into the treasury, shall be in like manner appropriated in aid of the said sinking fund as directed by the said recited act in the case of interest accruing on other redeemed certificates.

Other war-
rants receiva-
ble, as specie
in taxes.

XVI. And whereas it appears from official returns made to this assembly, that the various branches of revenue exclusive of the certificate tax yield the nett annual sum of three hundred and forty thousand six hundred and one pounds fifteen shillings and three pence halfpenny in specie, which sum will be considerably increased by the manner of listing all taxable property as directed by an act passed last session of assembly, and by the taxes arising under the act entitled "An act imposing new taxes." And whereas the various de-

mands on the public for the support of civil government, including an allowance for contingent expences, the allowance to military pensioners, the expences of criminal prosecutions, the expences of the state boats, and the arsenal at the Point of Fork, the state's shares in the Potowmack and James river companies, the interest on the military debt, the loan office debt, and the debt due for paper money funded, doth not annually exceed the sum of one hundred and thirteen thousand six hundred and eighty-seven pounds five shillings and eight pence, and therefore the aforesaid revenue is more than equal to the redemption of the warrants issued for payment of the several demands above enumerated, and also to the payment of the balance due on the several existing requisitions of congress; and it will tend to strengthen and confirm the public credit if the warrants issued for payment of the aforesaid claims and expences of government shall be by law made receivable in payment of all taxes whatsoever, except as hereafter excepted, *Be it therefore enacted*, That all warrants issued by the auditor of public accounts for the wages of the members of the general assembly, and every expence attending thereon for the salaries of the officers of civil government, and for defraying the contingent charges thereof, all warrants so issued for allowance to military pensioners, and for the expences of criminal prosecutions, and to apprehenders of horse stealers, for the expences of the state boats, and the arsenals at the Point of Fork, for the shares in the Potowmack and James river companies, for the interest on the certificates granted the officers and soldiers of the Virginia line both land and naval on continental and state establishments for their arrears of pay and depreciation, also warrants for the interest on the state loan office debt, and for the interest arising on the paper money of this state funded, also all salaries or allowances to the public printer, and to the keeper of the public jail, shall be receivable as specie by all sheriffs and collectors of public taxes for any of the taxes arising under the act entitled "An act to amend and reduce the several acts of assembly for ascertaining certain taxes and duties, and for establishing a permanent revenue into one act," also for all taxes arising under "An act imposing new taxes." And every sheriff or collector on payment thereof into the public treasury shall have

Auditor to issue warrants in small sums.

credit accordingly. And that the said warrants may be rendered more extensively useful than heretofore, the auditor of public accounts is hereby directed and required on application to him made for that purpose, to issue such warrants to those persons who have a right to draw the same in such small sums as he or they in whose favor the said warrants so to be issued may require or demand, and shall insert in the said warrant or indorse on the back thereof that it shall be received of any sheriff or collector as specie in payment of any part of the revenue tax or of the new taxes.

What warrants receivable in duties.

XVII. And whereas certain duties on goods imported have been appropriated to the payment of certain debts due to persons who are not citizens of this state, and for other purposes, and the said duties have produced sums nearly adequate to such appropriations; and it will tend to strengthen the credit of the government securities and facilitate the payment of the duties aforesaid if the persons chargeable therewith shall be permitted to make payment thereof in the warrants before enumerated as soon as a sufficient sum shall be raised therefrom in specie to discharge the debts for which the said duties have been appropriated; *Be it therefore enacted*, that all duties or imposts on any goods, wares, or merchandises whatsoever which shall be imported and entered at any custom-house within this state on or after the last day of November next, except the duties on tonnage, and the duties imposed by an act entitled "An act to impose an additional duty of two per centum ad valorem on goods, wares, and merchandise imported into this commonwealth," shall be discharged by the payment of the same in any of the warrants above enumerated equal to specie. And every naval officer, or collector of such duties or imposts, on payment thereof into the public treasury, shall have credit for the same accordingly. And if the drawer or holder of such warrant shall require or desire the auditor of public accounts to indorse on such warrant, that the same shall be received as specie in payment of all duties or imposts on goods imported on or after the said last day of November next, except the duties on tonnage, and the duty of two per cent. as aforesaid, the auditor shall make such indorsation accordingly.

XVIII. And whereas certain warrants issued by special order of the executive to be paid out of the fo-

reign fund, and redeemable by money arising from part of the duty on goods imported, and other branches of the revenue arising from duties and imposts, are appropriated to the redemption of the warrants granted for interest on the military certificates, and it will tend to strengthen the credit of such warrants and facilitate the payment of the said duties and imposts if the same shall be declared receivable as specie by the several naval officers or other persons legally authorised to collect such duties as soon as sufficient time can be given for publication of this act; *Be it therefore enacted*, That all duties or imposts arising or to become due to this commonwealth for any goods, wares, or merchandise imported into the same, and entered at any custom-house therein on or after the first day of January in the year one thousand seven hundred and eighty-eight, except the duties on tonnage, and the additional duty of two per cent. may be discharged by the payment thereof in any of the warrants issued by special order of the executive on the foreign fund, or by payment thereof in warrants by the auditor or auditors of public accounts for interest on the certificates granted the officers and soldiers of the Virginia line, both land and naval on continental and state establishments, for their arrears of pay and depreciation; which warrants shall be received by the naval officers or other persons legally authorised to collect the same, as specie in discharge of all duties or imposts arising on goods, wares, or merchandise imported or entered on or after the first day of January one thousand seven hundred and eighty-eight, except as before excepted: And such naval officers or collectors, on payment thereof into the public treasury, shall have credit for the same accordingly.

XIX. And whereas it is necessary to appropriate the revenue of one thousand seven hundred and eighty-seven, for which the sheriffs or collectors may distrain on the first day of January one thousand seven hundred and eighty eight, and also all branches of revenue which ought to be paid into the public treasury in the course of the year one thousand seven hundred and eighty eight, so as to provide for the public engagements and sinking part of the principal of the public debts: And whereas it appears by a statement of an account transmitted by the board of treasury of the United States to

Appropriation for requisition of congress, in money and in debts.

the executive of this state, and now laid before the general assembly, that the United States in congress assembled demand of this state five hundred and thirty three thousand six hundred and seventy nine dollars in specie, and one million one hundred and seventy seven thousand nine hundred and one dollars and sixty eight ninetieths of a dollar in indents, as the balance due on the several existing requisitions of congress, payments made since the thirtieth day of June last excepted; and it becomes necessary to ascertain the funds from which the balance justly due on the said requisition shall be paid; *Be it therefore enacted*, That in aid of the money and indents now in the treasury arising from so much of the land tax and slave tax as hath been appropriated to continental purposes, all the money arising from the operation of an act intituled "An act imposing new taxes," shall be applied; also the sum of one hundred and fifty thousand dollars arising from the tax of one and a half per cent. on lands and unimproved lots, of which money such a proportion shall be applied by the executive to procure indents for discharging the aforesaid requisition as shall to the governor with advice of council seem proper.

Naval officers
may retain
their salaries.

XX. And whereas the fund heretofore appropriated for the support of civil government have been so uncertain in their amount and collection, that the salaries to the judges of the supreme courts, and other officers of government, have not been paid with the punctuality requisite in every well regulated state, and it hath become necessary to make appropriation for that purpose of funds more certain and productive, *Be it therefore enacted*, That all naval officers and other officers who collect any of the public revenues, shall be allowed on settlement of their accounts to retain in their own hands as much of the money by them collected as will make good their own salaries or allowances by which they are by law entitled, any law to the contrary notwithstanding.

Appropriation for salaries of judges and officers of civil government

XXI. And whereas in aid of the funds destined for the payment of debts due to persons not citizens of this state, the tax arising on law process and alienations hath been heretofore applied; And whereas the said debts have been greatly reduced, and will be soon fully paid out of the money arising from duties on goods imported, and it is proper to convert the money

arising on the said tax on process and alienations to support the administration of justice; *Be it therefore enacted*, That all the money arising under the said tax, which shall be specie only, shall be set apart for the payment of the salaries of the judges of the supreme courts, and to no other purpose whatsoever. And that no disappointment may arise in the payment of such salaries, the treasurer is hereby directed and required to make good any deficiency which may at any time happen out of the first receipts of the money arising from such part of the land tax, as by this act is appropriated to the support of civil government. One tenth part of the money arising from the tax of one and a half per centum on lands and unimproved lots shall be applied to the redemption of the paper money funded, conformably to the recommendation of congress of the eighteenth of March one thousand seven hundred and eighty; the interest arising on the paper money of this state funded agreeable to an act passed in October one thousand seven hundred and eighty-one, entitled "An act for funding the paper money" and which hath been from time to time revived and continued, shall also be made good out of the said tax. All the rest of the money arising from the said tax on lands and unimproved lots shall constitute a fund for the support of civil government; and in aid of the said fund the sum General fund. of fifteen thousand pounds shall be drawn from the general fund: And if there shall be any surplus arising from the said money after paying the expences of civil government, and making good the sum of eight thousand pounds for the expences of the convention proposed to be held in the city of Richmond in June next, such surplus shall be carried to the sinking fund. All the money arising from taxable property shall as heretofore form a general fund; ten thousand pounds of which shall be at the disposal of the executive to defray the contingent charges of government; and one thousand pounds shall be subject to the votes of the general assembly, as the public exigences may require. From the taxes forming the said fund shall be paid by the sheriffs (according to an act intituled "An act to amend an act intituled an act concerning pensioners") the pensions due to wounded or disabled officers and soldiers. The sum of six thousand pounds of the money arising from the said fund shall be applied under

the direction of the executive to the purchase of arms for the use of the militia. The interest arising on the loan office debt registered in the auditor's office shall also be made good out of the said fund; warrants for such interest being issued annually agreeably to law: The said fund shall also be liable to make good all warrants heretofore drawn on the general, military, or contingent funds, and all sums voted by the general assembly during the present session, and not otherwise provided for: The said fund shall also make good the warrants heretofore issued and which may hereafter be issued to venire-men and witnesses for their attendance on criminal prosecutions, and to apprehenders of horse-stealers. *Provided always*, That the monies which may be drawn from the revenues of one thousand seven hundred and eighty-seven, or any future year, that may be paid in discharge of any of the warrants or votes aforesaid with which the arrearages of one thousand seven hundred and eighty-six or of any former year is properly chargeable, shall by the treasurer be made good out of the said arrearages and replaced in the funds of that year from whence such payments shall be drawn. All money arising from the tax on slaves above the age of sixteen years shall, as heretofore, be applied to the payment of the interest due, or hereafter to become due, on the certificates issued to the army and navy of this state for their arrears of pay and depreciation. The duty of four shillings per hogshead on tobacco exported shall also be applied in aid of the said slave tax. The duties on goods imported which have been heretofore appropriated to the redemption of the military debt shall also be applied to the payment of the said interest.

Interest of
military cer-
tificates, as-
sessed.

XXII. And whereas the situation of public affairs prevents the payment at present of any part of the principal of the said military debt, and it is judged absolutely necessary for the support of public credit, that the strongest assurance shall be given for the punctual payment of the interest thereof; *Be it therefore enacted*, That if the money arising from half of the slave tax for the year one thousand seven hundred and eighty-seven, which the sheriffs or collectors may distrain for on the first day of January, one thousand seven hundred and eighty-eight, and the duty of four shillings per hogshead on tobacco exported, and the several

duties above enumerated on goods imported shall prove inadequate to the payment of such interest, such deficiency shall be supplied out of the general fund; and if there shall be any surplus arising in the said fund after payment of the warrants for interest now issued, or which may be issued in the course of the year one thousand seven hundred and eighty eight, all such surplus shall be applied in aid of the general fund. The sum of six thousand pounds shall be applied annually to the purchase of arms and immuniton, in such manner as to the governor with advice of council shall seem expedient; and for this purpose all the nett revenue arising from the land office shall be applied, and if there shall be any deficiency the same shall be made good from the duty on tonnage. The duty of two and a half per cent. on merchandise imported and the balance which may yet be due from the sale of the Gosport lands shall constitute the fund for the payment of debts due by this state to foreign creditors, until the warrants for eighty thousand pounds directed to be issued in favor of the said creditors by the act, entitled, "An act to amend the act, entitled, an act to amend and reduce the several acts of assembly for appropriating the public revenue into one act," shall be fully redeemed; after which all the monies arising from the said duty of two and a half per cent. shall be applied, one half thereof in aid of the sinking fund, and the other half subject to the future direction of the general assembly, as the public exigences may require. Two thousand pounds arising from the tonnage on vessels shall be appropriated to defraying the charges of the boats Liberty and Patriot, under the direction of the executive, and the surplus thereof, after making good the said two thousand pounds, and the money appropriated to the purchase of arms shall be applied to the defraying the expences of the members representing this state in congress:—*Provided* the funds assigned for support of civil government shall at any time be insufficient to make good the expences of the said delegates; and if there shall be any surplus arising from the said duty on tonnage, it shall be carried to the fund for the support of civil government, except the duty of six pence per ton imposed for support of a light house, which shall be specially set apart and reserved for that purpose. The

Annual appropriation for purchase of arms & ammunition.

Various appropriations.

treasurer shall as heretofore from the surplus of any public money arising from the inspection of tobacco, pay the subscription to the Potowmack and James River companies, on behalf of this state, as the several dividends may be applied for from time to time by the president and directors of the said company; the money due for the tobacco destroyed when Byrd's warehouses were burnt, shall also be made good from the same, which the treasurer shall pay by such instalments as the state of the said fund will admit, and the balance of the said surplus money, unless otherwise directed by some act of the present assembly, shall go in aid of the general fund. The additional duty of two per centum ad valorem imposed by an act of assembly, intituled, "An act to impose an additional duty of two per centum ad valorem on goods, wares and merchandise imported into this commonwealth," shall be applied to the payment of six thousand pounds voted by the general assembly last session towards completing the capitol in the city of Richmond, and the surplus, if any, shall be reserved in the treasury subject to the future directions of the general assembly. The money due for slaves executed by legal sentence shall be paid, one half thereof out of the aggregate fund, and the other half out of the general fund; and it shall and may be lawful for the auditor of public accounts to grant warrants accordingly, or where warrants have been already granted, to issue new warrants in exchange for them formerly issued, expressing therein that the said warrants will be received as specie in payment of the arrearages of taxes, or in payment of the revenue of one thousand seven hundred and eighty-seven, as the case may be, in like manner with other warrants charged on the said funds agreeably to this act.

XXIII. *And be it further enacted,* That the executive be empowered and required to direct the treasurer in the mode of selling tobacco, which may be paid into the public treasury in discharge of any taxes now due, or hereafter to become due to this commonwealth. And all the taxes imposed by the act, intituled, "An act for imposing new taxes," except so much thereof as is directed to be paid to, and collected by the clerks of the courts, may be discharged by the payment thereof in tobacco, at the like prices as the same may

be paid in discharge of the taxes imposed by the laws establishing a permanent revenue; and every sheriff or collector on payment thereof into the public treasury shall have credit for the same accordingly; any thing in the said act for imposing new taxes, or in any other act to the contrary notwithstanding.

XXIV. *And be it further enacted*, That all money or tobacco now in the treasury shall be applied agreeable to the laws appropriating the same.

XXV. And whereas the tax on young slaves and the tax on free males above the age of twenty-one years, have been found very burthensome, and the situation of the public revenues will justify a remission of the said taxes; *Be it therefore enacted*, That so much of the laws of revenue as impose a tax of ten shillings to be paid by each free male person above the age of twenty-one years, shall be, and the same is hereby repealed: And if any such tax for the revenue of one thousand seven hundred and eighty-seven, hath been paid to any sheriff or collector of taxes the same shall be restored to the person who hath paid the same: So much of the slave tax for the revenue of one thousand seven hundred and eighty-seven, as by law is charged on slaves under the age of sixteen shall be remitted, and all persons chargeable therewith shall be discharged from the payment thereof; and if any person chargeable therewith hath paid any part thereof to any sheriff or collector of taxes, the same shall be by such sheriff or collector restored to the person who hath paid the same.

Poll tax, and tax on young slaves repealed.

XXVI. And whereas it is reasonable that slaves above the age of twelve years should in future pay taxes, *Be it therefore enacted*, That an account of all slaves above the age of twelve years, shall by the owner or overseer thereof be given to the person or persons by law appointed to take the list of taxable property, and a tax of ten shillings shall be paid for the same, except for the revenue of one thousand seven hundred and eighty-seven, as above excepted; the said tax shall be paid, collected and distrained for at such times, and under like regulations, and in default thereof, the same remedy shall be had as prescribed by the act, intituled "An act to reduce and amend the several acts of assembly for ascertaining certain taxes and duties, and for establishing a permanent revenue into one act."

Tax on slaves above twelve years old,

Tax on cattle
repealed.

XXVII. *And be it further enacted, That so much of every act of assembly as imposes a tax on cattle, shall be and the same is hereby repealed.*

XXVIII. Provided always, that nothing herein contained shall prevent the collection and recovery of any arrearages of the taxes due heretofore on free male tithables above the age of twenty-one years, and on slaves under the age of sixteen, and on neat cattle, but such arrearages shall be collected, paid and distrained for, and the recovery had against all delinquent sheriffs and collectors, and in all cases the damages on failure of payment thereof shall be the same as if this act had not been made.

CHAP. II.

An act to amend the several acts respecting the militia.

[Passed the 27th of December, 1787]

Arms what
kind, and how
provided and
distributed.

I. *BE it enacted by the General Assembly, That the governor with the advice of council, shall apply the money by law appropriated to the purchase of arms, in procuring such artillery, small arms, accoutrements and ammunition, as may to him with such advice seem proper; and the small arms so procured shall be distributed to the different counties in proportion to the number of their militia. Every private receiving such arms and accoutrements shall hold the same subject to the like rules, penalties and forfeitures, as are prescribed for a poor private in and by the act of assembly, intitled, "An act to amend and reduce into one act the several laws for regulating and disciplining the militia, and guarding against invasions and insurrections."*

Troop of cav-
alry, for each
county,

II. *And be it further enacted, That a troop of cavalry to consist of thirty-six men to each regiment, which shall amount to five hundred men, and so in proportion both of officers and men for a regiment, which may consist of a smaller number, be raised out of and annexed to the militia of each county within this com-*

monwealth, to be enlisted by voluntary enlistments, and for that purpose the governor with the advice of the council shall issue commissions for a captain, lieutenant and cornet of horse to every regiment of militia within the respective counties.

III. *Provided always*, That the governor with the advice aforesaid, be, and he is hereby authorised to issue like commissions for more than one troop of horse in any of the counties on the western waters, where the same shall be found necessary. And all commissions hereby directed to be issued shall be void, unless the number of men to be enlisted for such troop or part of a troop be completed within twelve months.

Where more than one troop.

IV. Every captain shall, after qualifying as directed for other officers, proceed to enlist the aforesaid number of men, who shall find and provide themselves each with a horse and necessary accoutrements, and be subject to the same regulations and orders as the rest of the militia.

Horses and accoutrements.

V. *And be it further enacted*, That the governor with the advice of council, shall be empowered to order out into actual service from time to time, so many scouts and rangers in any of the counties on the western frontier, or from any other counties the most convenient as to them shall seem necessary, the expence whereof shall be defrayed out of the funds provided or to be provided for the support of government. So much of the said recited act as compels the militia to provide arms and accoutrements is hereby repealed.

Scouts and rangers how ordered out.

VI. *And be it further enacted*, That where the courts martial shall exempt any of the militia on account of bodily infirmity from duty, they may again direct such persons to be enrolled when able to do duty.

Exempts, when ordered again for duty.

CHAP. III.

An act to amend an act, intituled, An act to amend the act, intituled, an act to restrict foreign vessels to certain ports in this commonwealth.

[Passed the 5th of January, 1788.]

I. FOR the better securing the revenue arising from duties on imports and exports, whereby the burthen of taxes upon the people may not be increased; and for regulating the trade of this commonwealth, whereby foreigners may be placed on a more equal footing;

Vessels restricted to certain ports.

Ports of entry and clearance.

II. Be it enacted, That from and after the first day of February next, the following places shall be, and the same are hereby established as ports of entrance and clearance for all ships and other vessels coming from or going to any port or place without this commonwealth, that is to say: For the district of Elizabeth river, the port of Norfolk; for the district of James river, the port of Hampton; for the district of York river, the port of York; for the district of Rapahannock river, the port of Urbanna; for the district of South Potowmack, at the ports of Yeocomico, or Alexandria: *Provided,* That all cases of entrance or clearance at Alexandria, shall and may be made with a deputy, appointed by the naval officer of the said district, and residing at the said port; for the district of Accomack, at Accomack court-house; and for the district of Northampton, the port of Cherriston. And that all vessels coming into or going out of this commonwealth shall proceed to one or other of the said ports as above directed; and shall there be subject to such regulations as are or may be by law established. And the masters or owners of such vessels shall perform and do all things which shall be lawfully demanded of them, or either of them, by the naval officers residing at the ports respectively. And no ship or other vessel coming into or going out of this commonwealth, shall break bulk or sail from thence without a legal permit for that purpose first obtained from

the naval officer at the port within the district into which such vessel shall enter, or from which such vessel may go.

III. *And be it further enacted*, That the following places shall be, and the same are hereby established as ports of delivery for the unlading and lading of all vessels coming into or going out of this state, not built within the United States and not wholly owned by a citizen or citizens thereof, that is to say: For the district of Elizabeth river, the ports of Norfolk or Portsmouth; for the district of James river, the ports of Bermuda-Hundred or City-Point; for the district of York river, the ports of York town and West-Point; for the district of Rappahannock river, the ports of Tappahannock, Urbanna, or Port-Royal; for the district of Potowmack river, the port of Yeocomico, mouth of Quantico, and Alexandria; for the district of Accomack, at Folly's Landing, and Onancock; and for the district of Northampton, at Cherriston.

Ports of delivery for foreign vessels

IV. *And be it further enacted*, That the following places, shall be, and the same are hereby established as ports of delivery for the unlading and lading of all vessels coming into or going out of this commonwealth, built within the United States, and wholly owned by a citizen or citizens thereof, and navigated according to law, that is to say: For the district of Elizabeth river, the ports of Norfolk, Portsmouth, and Suffolk; for the district of James river, the ports of Hampton, Bermuda-Hundred, City Point, Petersburg, and Rockets Landing; for the district of York river, the ports of York and West-Point; for the district of Rappahannock river, the ports of Urbanna, Tappahannock, Port-Royal and Fredericksburg; for the district of Potowmack river, the ports of Yeocomico, mouth of Quantico, and Alexandria; for the district of Accomack, Folly's Landing and Onancock; and for the district of Northampton, at Cherriston: *Provided always*, That any vessel built within the United States, and wholly owned by a citizen or citizens thereof as aforesaid, and navigated according to law, shall and may lade at any port or place within this commonwealth, with any article or articles for exportation.

Ports of delivery for vessels of the United States.

V. *And be it further enacted*, That no vessel coming into any of the aforesaid districts, from any port or place without this commonwealth, or going from thence

Penalty for breaking bulk without permit.

to any port or place without the same, except as before is excepted and provided for, shall be permitted to break bulk or unlade or lade on board any goods, wares or merchandise whatsoever, at any other port or place within the said districts, nor until a permit for that purpose be obtained, and all lawful duties, tonnage or imposts paid or secured to be paid as the law shall direct; and moreover the said vessels and the goods, wares, and merchandise laden therein, and the masters, owners and crews thereof shall be subject to, and shall do and perform all manner of regulations and things established, or to be established or required by law, at the aforesaid ports of delivery. Any master or owner of any vessel aforesaid, or any owner, importer, or exporter of any goods, wares, or merchandise aforesaid, wilfully neglecting or refusing to comply with this act, shall forfeit the vessel, together with her rigging, tackle, and apparel, or the goods, wares, and merchandise, as the case may be, one half to the commonwealth, and the other half to the informer, to be recovered by information in the court of admiralty.

Register of
vessels.

VI. *And be it further enacted*, That all persons owning any decked vessel above eighteen feet in length by the keel, to be employed as river or bay craft, shall obtain a register for the same, from the clerk of the court of the county or corporation, in which such owner may reside, specifying the names of the owner and shipper thereof, and the number of men employed therein, which shall be recorded by the clerk of the county or corporation aforesaid, in a book kept for that purpose, who shall receive the fee of two shillings and six pence for every vessel, to be paid by the owner thereof; and every owner, master or skipper of such river or bay craft, when employed by the owner or master of any vessel at the ports of delivery aforesaid, shall deliver to such owner or master employing the same, if demanded, a copy of the said register, under his hand, and shall be answerable for the safe keeping and delivery of all goods, wares, and merchandise received on board such river or bay craft, damage from winds and weather excepted, according to the order of the person shipping the same on board thereof, and for default therein, shall forfeit and pay the full value of such goods, wares and merchandise to the party grieved, recoverable by information in the court of

the county or corporation wherein such owner of craft may reside; and moreover shall be liable to an action for damages to the party grieved as aforesaid. If any owner, master or skipper of any vessel as aforesaid, to be employed as river or bay craft, shall presume to take on board his said vessel any goods, wares, of merchandise upon freight or hire, not being first qualified therefor pursuant to this act, such owner, master or skipper shall forfeit and pay the sum of fifty pounds, recoverable by information in any court of record within this commonwealth, one half thereof to the person suing for the same, and the other half to the commonwealth aforesaid. If any person not being a citizen of this commonwealth, or some one of the United States, and resident therein, be owner or part owner of any vessel employed as river or bay craft, such vessel shall be forfeited, together with her rigging, tackle, apparel and furniture; one half to the informer, and the other half to the use of the commonwealth, recoverable in the court of admiralty.

VII. *And be it further enacted*, That the district of South Quay shall be a separate district as heretofore established; and that the executive be, and they are hereby authorised to appoint a naval-officer for the same, who shall keep his office at the port of South Quay. All masters or commanders of vessels coming into this commonwealth shall be obliged to make a true and just report to the naval-officer at the lowest port of entry upon the river, they shall be bound to, except the river Potowmack, of all the cargo on board of their vessel, a copy of which report shall be transmitted under the hand and seal of such naval-officer to the deputy naval-officer at the port of entry to which such vessel may proceed, where full entry shall be made and the duties secured, and if any master or commander of a vessel shall break bulk before he secures the duties, such vessel together with her rigging, tackle, apparel and furniture, and the goods, wares and merchandise so unladen or put on shore, shall be forfeited and condemned in the court of admiralty, one half to the informer, the other half to the use of the commonwealth, and moreover the master or commander of such vessel, shall forfeit and pay the two hundred pounds, recoverable by plaint or information in any court of record, to the use of the informer.

South Quay,
a separate
districts.

Where mas-
ters of vessels
to report, ex-
cept on the
Potowmack.

VIII. *And be it further enacted*, That so much of all and every other act or acts of assembly as comes within the purview of this act, shall be, and the same is hereby repealed.

CHAP. IV.

An act to amend the several acts of Assembly concerning naval officers and the collection of the Duties.

[Passed the 7th of January, 1788]

Naval officers
and collec-
tion of duties,
various regu-
lations con-
cerning.

I. *BE it enacted by the General Assembly*, That there shall be a naval officer for each of the following districts, that is to say: For the district of Elizabeth river commencing at Cape Henry and extending from thence up Nansemond and James rivers, including the several creeks and inlets thereof: For the district of James river extending from Back river point up James river, including the several creeks and inlets thereof: For the district of South Quay: For the district of York river: For the district of Rappahannock river: For the district of South Potowmack: For the district of the county of Accomack: And for the district of the county of Northampton.

II. The present naval officers shall be continued; and every vacancy shall be supplied by joint ballot of both houses of assembly, and a commission shall issue from the governor in pursuance thereof: But a vacancy happening in the recess of the assembly, or happening at any time and not filled up by the next assembly following, such vacancy may be supplied by a temporary appointment of the executive until the end of the succeeding session of assembly.

III. The residence of the naval officers shall be as follows; that is to say, of the naval officer of Elizabeth river at Norfolk or Portsmouth, of the naval officer of James river at Hampton, of the naval officer of South Quay at South Quay, of the naval officer of Rappahannock at Urbanna, of the naval officer of South Potowmack at Yeocomico or Alexandria, any thing in

the "Act to amend the act intituled an act to amend the act intituled an act to restrict foreign vessels to certain ports within this commonwealth," notwithstanding; of the naval officer of Accomack at Drummond or Onancock, of the naval officer of Northampton at the courthouse thereof or at Cherriston, and of the naval officer of York river at York town. They shall keep their offices at the places aforesaid respectively, but the naval officer of the district of Elizabeth river shall keep his office in the borough of Norfolk; and the executive may grant a reasonable time for the removal of other officers hereafter to be appointed to the places herein before mentioned.

IV. Every naval officer may exercise his office by deputy at the place of his residence, in case of sickness or necessary absence, and the naval officer of South Potowmack may exercise his office by deputy at Alexandria or Yeocomico. Neither the said naval officers or their deputies shall directly or indirectly be concerned in trade.

V. Every naval officer at the time of receiving his commission shall enter into bond with good and sufficient security in such penalty as the executive shall direct to the governor in trust for the commonwealth for the due and faithful discharge of his duty according to law, and shall moreover take an oath of office to be administered by the governor.

VI. Registers shall be granted by the executive to citizens of the United States only, and for vessels built in the United States only, the captain and mates whereof have been citizens for at least one year preceding. The form of such register, and the mode of proving such citizenship, the time and place where the vessel was built, and her tonnage, may be prescribed by the executive.

VII. The master or owner of every vessel coming into this commonwealth shall proceed with the same without delay to the port at which she intends to enter: And shall within sixty hours after her arrival at moorings in such port, make to the naval officer of the district, a just and true report upon oath of the burthen, contents and loading of such vessel, with the particular marks and numbers of every cask or package whatsoever therein laden, to whom consigned to the best of his knowledge, and also where and in what port the same were laden and taken on board:

VIII. Whenever an entry is made, the master, owner, or consignee shall produce on oath a fair and regular manifest expressing the several casks, parcels, packages, and other articles of merchandise howsoever described or named, laden on board of his vessel, with the original invoices or a true copy thereof, the marks and numbers thereof, and to whom the same are consigned, to the best of his knowledge, and he shall moreover on oath specify the tonnage of such vessel to the best of his knowledge, according to the carpenters tonnage.

IX. The naval officers or any person by them respectively appointed shall have full power and authority to go and enter on board any vessel, and from thence to bring on shore any articles whatsoever liable to duty if such duty be not paid, or bond with good and sufficient security given for the payment of the same within six months next after such entry, (which bond, if offered, the naval officer is hereby authorised and required to accept and take,) and such articles so brought on shore to secure and detain until due payment shall be made, or security given for the same as aforesaid. And if such payment or security be not made or given within two days from the time of such seizure, the naval officer is hereby empowered to sell at the end of six months from the date of such seizure the same or so much thereof as shall be sufficient to discharge the said duties, and five per centum for the charges of such seizure, and sale and storage. *Provided nevertheless*, That notice shall be given of such seizure by advertising the same six weeks in the Virginia Gazette.

X. The permits to be granted for landing the whole of any cargo shall specify the several casks, parcels, packages, and other articles of merchandise, and the port or ports at which such goods, wares, or merchandises are to be delivered. The permits to be granted for landing the part of any cargo, shall likewise specify the whole of the cargo and tonnage, distinguishing what part hath been permitted to be landed elsewhere, and what may be permitted thereby to be landed.— But no delivery whatsoever shall be made until the permits shall be exhibited to and countersigned by the searcher of the port of delivery: And before the same shall be countersigned, the naval officer shall make

out an exact copy under his hand and seal, of each permit for the place of delivery, which copy shall be sealed up and committed to the master or commander of the vessel, and delivered to the searcher before the permit shall be countersigned by him.

XI. Any master or skipper of a vessel intending to transport any goods, wares, or merchandises liable to a duty from one district to another shall obtain from the naval officer of the district from which they are to be transported a permit under the hand and seal of such officer, describing the vessel with the casks, packages and parcels therein laden, according to their respective marks and numbers, specifying the district into which they are to be transported, and certifying that all the duties thereon have been duly paid or secured to be paid, under which permit such master or skipper shall be entitled to deliver and unlade his cargo at the place or places authorised by law. And the naval officer shall receive and take such proof of the duties having been paid on the said goods so to be transported as the nature of the case may admit. No vessel going out of this commonwealth shall pass the district in which her loading shall have been completed, until she shall have been duly cleared, and all duties to be accounted for on clearance shall be first satisfied according to law.

XII. Every master of a vessel when he makes his entry shall give bond with security in the penalty of one thousand pounds, that he will not depart this commonwealth when an embargo is laid during the continuance thereof; and every naval-officer upon receipt of the order for such embargo shall forthwith give notice to the masters of vessels within his district, and no bond given respecting such embargo shall be adjudged, deemed, or taken, to be forfeited, unless notice be given as aforesaid.

XIII. Every naval officer at the time of granting a permit to load, shall take bond of the master of the vessel in the penalty of two hundred pounds, conditioned that he will not crop, cut away the bulge, draw the staves, or otherwise abuse or injure any tobacco cask freighted in his vessel, or cause or suffer the same to be done with his knowledge, privity, or procurement, without the consent of the freighter or freighters.

XIV. No duties shall be payable on any imported articles being the property of this commonwealth, the United States, or any of them, nor on any articles imported directly by water in vessels belonging wholly to citizens of the United States which shall be proved to be of the growth or manufacture of the state from which they shall be imported, except rum and unrefined sugar, which articles shall be subject to the same duties as are by law imposed on the same articles imported from foreign countries.

XV. Before any permit shall be granted for delivery, six pence per ton shall be paid, or secured to be paid, for every vessel which shall enter, to be appropriated to the light house, and one shilling for every seaman or mariner, and apprentice on board, to be appropriated to the marine hospital. But for every vessel built in the United States, the captain and mates whereof have been citizens for at least one year preceding, and bona fide belonging to a citizen or citizens of the United States, and not exceeding one hundred tons, the tonnage on such vessels shall not exceed six pence per ton in addition to the tonnage imposed for the erection and support of a light house. But all vessels not exceeding one hundred tons burthen, and wholly owned by a citizen or citizens of the United States or any of them, and navigated according to law, who shall be employed solely in carrying off American coal, shall be exempted from all tonnage except the six pence per ton for the support of the light house.

XVI. No coasting vessel of fifty tons or under shall be compelled to take a pilot, or be subject to any penalty for refusal.

XVII. Nothing herein contained shall be construed to affect, or as being intended to affect, the rights and obligations arising under the act of the general assembly, intituled "An act to approve, confirm, and ratify the compact made by certain commissioners appointed by the general assembly of the state of Maryland and commissioners appointed by this commonwealth."

XVIII. The master or owner of any vessel coming into this commonwealth and laden with goods, wares, or merchandizes, a part whereof only are to be delivered in this commonwealth, shall be admitted to enter and deliver the same on paying, or securing to be paid, as the case may be, the duties thereon together with such

proportion of the tonnage, as will correspond with the proportion which the bulk of such part bears to the bulk of the whole cargo; such proportion of the tonnage to be ascertained by the persons to be appointed by the naval officer, who shall act upon oath, and report their opinion to such officer. And no other part of the said cargo liable to duty shall be unladen or put on shore.

XIX. No owner, master, or commander of any vessel shall sell or permit to be sold on board of the same in retail any goods, wares, or merchandize liable to a duty.

XX. No person shall be required to give account upon oath of the true contents of any pipe or lesser cask of wine, or hogshead or lesser cask of spirits, beer, ale, porter, cyder, or molasses imported, but shall have liberty to enter a pipe or hogshead as aforesaid at one hundred and ten gallons, and all lesser casks after the same proportion.

XXI. When any naval officer or searcher shall have good reason to suspect that any package or parcel of goods contains any article that has not been entered, it shall be lawful for such officer to open and examine in company with a justice of the peace such package or parcel.

XXII. It shall be lawful for the naval officers or searchers having good cause to suspect that any goods, wares, or merchandize on which duties have not been paid, are stored and secreted in any house, to apply to a justice of the peace, or alderman of a corporation for a warrant, which warrant shall not be granted but on information on oath, and being accompanied with a constable, to break open in the day time such suspected house when it may be necessary, and any goods so found, on which the duties have not been paid or secured to be paid, may be seized and carried away.

XXIII. No goods, wares, or merchandizes whatsoever shall be delivered or unladen from any vessel importing the same, unless it be between sunrise and sunset, unless compelled by ice, tempest or other stress of weather, in which case the master of such vessel shall enter a protest with some justice of the peace within twenty four hours, and give immediate notice thereof to the naval officer or searcher.

LAWS OF VIRGINIA,

XXIV. For all duties except those arising from seamen or mariners, the naval officer may take bonds payable at the end of six months with one or more securities.

XXV. The duties arising on tonnage shall either be paid down to the naval officer at the time of entering any vessel, or the person entering any such vessel shall deposit with the naval officer such goods as shall in the opinion of such naval officer be sufficient to secure the payment thereof at the end of one month; and if the said goods be not redeemed at the expiration of the time aforesaid, the naval officer shall sell the same, or so much thereof as shall be sufficient to pay the said tonnage and the expence attending the sale.

XXVI. The several naval officers shall pay quarterly into the treasury all monies coming into their hands by virtue of this act.

XXVII. All bonds taken by the naval officers for duties imposed at the time of entry shall be by them retained in their respective offices until the same shall become due; and all bonds so retained and remaining unpaid at the succeeding quarter shall be by the naval officers transmitted to the solicitor general, for which two receipts shall be given by the solicitor to the naval officer transmitting the same, who shall deposit with the auditor of public accounts one of such receipts and a list of the bonds so transmitted to the solicitor, in order that the auditor may charge the solicitor with all such bonds.

XXVIII. At any of the four terms of the general courts, or at the court of the county of Henrico, after the transmission of such bond, the solicitor may move without notice for judgment against the principal and securities of such bond; and the said courts are hereby authorised to give judgments for the sums due, and five per centum interest, and costs; and on the executions to be issued thereupon the clerk shall indorse "No security to be taken."

XXIX. And so soon as the solicitor shall receive all or any part of the sums due on such bonds or executions, he shall immediately pay the same into the treasury, with a deduction of one per centum to be paid out of the money arising from the interest on such bonds, and the receipts obtained therefor shall entitle him to a credit with the auditor.

XXX. It shall be the duty of the naval officers to keep registers of all district permits by them granted.

XXXI. Whensoever any vessel shall come into any port of this commonwealth in distress, it shall be lawful for the naval officer of the district to permit such part of her cargo to be sold as may be necessary for repairing any damage which she may have sustained, and thereafter the said vessel shall be at liberty to depart for any port or place without this commonwealth, without paying any of the duties or tonnage, or being obliged to comply with any of the rules and regulations which it would have been necessary to have paid or complied with in case her cargo had been destined to be delivered at some port within this commonwealth, except the tonnage appropriated to the support of a light house. Double tonnage shall be paid for all omitted tonnage before a vessel shall be permitted to clear out.

XXXII. The salaries of the several naval officers shall be in lieu of all commissions and fees, as follows; the salary for the naval officer of Elizabeth river district four hundred pounds: For the naval officer of James river district two hundred pounds: For the naval officer of South Quay district fifty pounds: For the naval officer of York river district one hundred and fifty pounds: For the naval officer of Rappahannock district two hundred pounds: For the naval officer of Potowmack district two hundred and fifty pounds: For the naval officer of Accomack district fifty pounds: And for the naval officer of Northampton district fifty pounds: And moreover they shall be allowed a commission of one per centum on all monies by them respectively received and paid into the treasury by virtue of their office; and also a commission of three fourths of one per centum on the amount of all bonds for duties by them taken.

XXXIII. The several naval officers and searchers shall be subject, the former to be suspended, and the latter to be suspended and displaced by the executive for misconduct or neglect of duty. The naval officers and searchers shall in the mode of keeping their offices and books, and in the forms of making out their permits, certificates, returns, and other instruments of writing, obey such instructions as they may from time to time receive from the executive.

XXXIV. And any member of the executive may at any time, with the approbation of the board, visit the several places where the naval offices are kept, or searchers appointed; and shall have powers to inspect their offices, books, and public papers, and to suspend any of the said officers for the space of one month, appointing another person to do the duties of the office in the meantime. And such member of the executive during the time of performing such visit shall be entitled to his salary, and shall moreover be allowed fifteen shillings per day for his travelling expences.

XXXV. Each naval officer shall keep a seal of office of a form and device to be approved of by the executive, and shall deposit with each of the searchers of his district an exact impression thereof.

XXXVI. The clerk of the council shall, before he delivers any register, demand and receive fifteen shillings if the vessel be under one hundred tons, and thirty shillings if the vessel be of greater burthen, which money after a deduction of two and a half per centum, as a commission to the said clerk, shall by him be quarterly paid into the treasury.

XXXVII. Searchers shall be appointed at such places as the executive shall think proper, and be commissioned by the governor, and shall at the court of the county or corporation in which he resides next after the commencement of this act, or after his appointment, as the case may be, take an oath, and enter into bond with sufficient security in the sum of one thousand pounds payable to the governor for the time being, to the use of the commonwealth, for the faithful performance of his duty.

XXXVIII. It shall be the duty of the searchers to attend to the delivery and unlading of all goods, wares, and merchandises at the places for which they may be appointed, and to go on board any vessel coming to such place as often as may be requisite; they shall also, whenever they shall have good reason to suspect that the tonnage of any vessel has not been truly entered, measure the same according to the rules prescribed by law, and if it shall appear from such admeasurement that a deficient entry has been made they shall certify such deficiency to the naval officer of the district, and a copy of such certificate shall be transmitted quarterly by the searchers to the auditor of pub-

lic accounts. The searchers shall also register, in books to be kept for that purpose, descriptions and lists of all vessels and of their cargoes delivered or unladen at the places for which they are appointed respectively, according to the permits granted by the naval officer, and shall quarterly transmit the counter part of each permit, furnished them by the naval officer to the auditor of public accounts.

XXXIX. It shall be lawful for the executive to appoint as many assistants to the several searchers as shall appear necessary.

XL. All claims by mariners for wages shall be tried on motion in a summary way, by a jury summoned instantly in the court of any county, or a corporation within any county, where the vessel may lie, and it shall be lawful for the clerk thereof to issue process summoning the master to answer such claims, and to demand special bail from the party served. All executions issued upon judgments obtained for wages shall be irrepleviable and no appeal allowed.

XLI. Every naval officer who shall not keep his office at the place herein fixed for the same, shall forfeit his office.

XLII. The master or owner of any vessel coming into this commonwealth failing to make a just and true report according to law, shall forfeit two hundred pounds, one half to the use of the commonwealth, and the other half to the person suing for the same, recoverable by action of debt in any court of record, and in all cases the defendant shall be held to special bail.

XLIII. If any goods, wares, or merchandises liable to a duty shall be landed or put on shore, or if bulk be broken before due entry be made of the vessel importing the same, such goods, wares or merchandise so landed or put on shore, shall, together with the said vessel, her rigging, tackle, apparel and furniture, be forfeited and condemned in the court of admiralty, one half to the use of the commonwealth, and the other half to the use of the libellant: *Provided*, That the judges of the court of admiralty shall have power to direct any prosecution hereafter to be commenced against any vessel in the said court of admiralty to be discontinued, where they shall be satisfied that no fraud was intended in failing to enter any goods, but that the same happened through mistake

or ignorance in any captain or master in making his entry.

XLIV. All goods, wares, or merchandises subject to a duty, which shall, after entry, be unladen or put on shore before the obtaining, or contrary to the tenor of the permit, shall be forfeited and condemned in the court of admiralty, one half to the use of the commonwealth, and the other half to the use of the libellant.

XLV. Every master or commander of a vessel failing to make a just and true return of all seamen and mariners, as required by law, shall forfeit five pounds for each seaman or mariner not returned, recoverable in any court of record, on motion, with ten days previous notice, one half to the use of the commonwealth, and the other half to the use of the person moving for the same.

XLVI. Every searchier failing to register the permits and transmit the same, quarterly, to the auditor of public accounts, according to the directions of this act, shall forfeit two hundred pounds to the use of the commonwealth, to be recovered by the solicitor, by motion, with ten days previous notice, in any court of record.

XLVII. If any pipe, hogshead, or other cask, shall exceed the quantity entered fifteen per centum or more, every such pipe, hogshead, or other cask, shall, with its contents, be liable to be condemned in the court of admiralty, one half to the use of the commonwealth, the other half to the libellant.

XLVIII. If any package or parcel of goods contains any article that has not been entered, or a greater quantity of any article than has been entered, every article so omitted, with a fraudulent intention, shall be forfeited, and condemned in the court of admiralty, one half to the use of the commonwealth, the other half to the libellant.

XLIX. If any goods, wares, or merchandises liable to a duty, and transposed from one district to another, shall be delivered or unladen, or shall be found on board of any vessel without having obtained a distinct permit according to the directions of this act, the same shall, together with the vessel, rigging, tackle, apparel and furniture, be forfeited and condemned in the court of admiralty, one half to the use of the commonwealth, the other half to the libellant.

L. If any officer of the customs, or officer of the state boats, shall meet with obstruction in the execution of his office, he may impress persons or vessels to his assistance, and the person or persons so summoned and assisting shall be allowed one half the sum given by law to the officer making seizure; but every person failing to render the assistance required, without reasonable excuse, shall forfeit and pay the sum of ten pounds, to be recovered, on motion of the officer, in the court of the county where the party resides, to the use of the commonwealth; *Provided*, ten days previous notice be given of such motion.

L.I. Any naval officer or solicitor failing to pay the money into the treasury agreeably to this act, shall forfeit and pay five hundred pounds for every such failure. And any naval officer failing to deliver the bonds to the solicitor as required by this act, shall forfeit and pay five hundred pounds for every such failure; both of which penalties shall be recoverable, by an action of debt, in the name of the commonwealth, in any court of record.

LII. If any goods, wares or merchandises shall be delivered or unladen from any vessel importing the same, unless it be between sun rise and sun set, the same shall be forfeited, and condemned in the court of admiralty, one half to the use of the commonwealth, the other half to the libellant.

LIII. If any naval officer, at the time of granting a permit, shall fail to take bond of the master of the vessel, in the sum of two hundred pounds, conditioned as directed by this act, he shall forfeit and pay the sum of two hundred pounds, to be recovered, by information, in any court of record, and applied, one moiety to the use of the commonwealth, and the other to the informer.

LIV. No vessel or cargo shall be liable to any loss or damage for any mistake or error which may happen by means of any naval officer, searcher, or assistant.

LV. If any owner, master or commander of a vessel shall sell or permit to be sold on board of the same in retail, any goods, wares or merchandises liable to a duty, he shall forfeit and pay the sum of fifty pounds for every such offence; one half to the use of the commonwealth, the other half to the informer, recoverable,

by motion, in any court of record, upon ten days previous notice.

LVI. Every naval officer shall set up, or cause to be set up, in the most public place in his office, and constantly kept there, three fair written tables; one in the English, one in the French, and one other in the Dutch language, shewing plainly and clearly the duties payable on all goods imported, and tonnage payable on vessels.

LVII. No vessels shall be cleared out unless the master thereof shall produce to the naval officer a manifest of the cargo, and make oath (or affirm if a quaker, or of any profession in which taking of oaths is not allowed) that the commodities to be exported have been inspected, stamped and branded according to law.

LVIII. Every naval officer shall enter in a book to be kept for that purpose, a fair list of the entries, and in one other book a fair list of the clearances of all vessels with their cargoes, and once in three months transmit a copy thereof to the governor.

LIX. The bonds directed to be taken by this act shall be made payable to the governor, for the time being, and his successors, for the use of the commonwealth.

LX. Drawbacks shall be under the limitations and restrictions herein after mentioned: No drawbacks shall be allowed for any merchandise liable to duty, exported out of this state, unless exported within ninety days after importation thereof by the original importer, and by water, and unless exported in the original cask or package in which they were imported unbroken, and in vessels belonging to a citizen or citizens of the United States, or in the vessel in which they were originally imported; and such importer desiring to export such merchandise shall deliver to the naval officer of the port from whence the same is intended to be exported, a fair manifest, certified by the searcher, to express truly the marks and numbers of the pipes, hogsheads, trunks, casks, bales, packages, or other things containing any such dutiable articles, and a full and particular list of all the articles thereof, with the cost according to the account by which the duties thereon were ascertained, and shall make oath, or affirmation, to be endorsed on such manifest, con-

taining also a description of the vessel in which they were imported, and the time of importation, and that it is a true manifest of all the dutiable merchandise intended to be re-exported in the vessel mentioned in the permit, and that the merchandise mentioned in such manifest were duly entered, and the duties thereon paid, or secured to be paid, according to law; which manifest shall be transmitted by the naval officer to the auditor of public accounts; and such importer shall also give bond with sufficient security that the said merchandise shall be exported out of the commonwealth without fraud or deceit, which bond shall be transmitted to the solicitor by such naval officer: And the master or skipper of the vessel receiving such merchandise shall take a clearance thereof, and make oath, or affirmation, that he will not land, or permit to be landed, such merchandise in any part of this state, but will deliver the same, dangers of navigation only excepted, at the place mentioned in the clearance. And if such exporter will, within twelve months after the date of such bond, produce a certificate from a naval officer, notary public or chief magistrate of any other state or country, that such merchandise was duly entered in such state or country, or shall make it appear, within twelve months from the time such goods may be shipped, by indifferent testimony, to the satisfaction of any two judges of the court of admiralty, in or out of session, that the vessel in which such goods, wares and merchandise may have been exported, and the cargo shall have been lost by tempest or other accident, in such cases the exporter shall be entitled to receive from the treasury the duties which have been paid on such re-exported goods, wares or merchandise, with a deduction of one per centum paid to the solicitor as aforesaid, or to have the bond securing such duties wholly cancelled, or a credit endorsed thereon *pro tanto* as the case may be, where such bond shall not have been paid. *Provided*, That no drawback shall be allowed unless demanded within twelve months from the time of the re-exportation of any such goods, wares or merchandise unless where the cargo shall have been lost by tempest or accident, nor on any sum less than the value of fifty pounds. *And provided*, That no drawback shall be allowed except for goods which shall have been actually landed, and afterwards re-shipped for exportation, salt excepted.

LXI. If any officer shall be sued or prosecuted for any thing done by virtue of the powers hereby given, he may plead the general issue, and give this act in evidence, and if in such suit the plaintiff be non suited or judgment pass against him, the defendant shall recover double costs.

LXII. The act intituled "An act to amend the several acts of assembly concerning naval officers and the collection of the duties," except the twenty-fourth, twenty-fifth, twenty-sixth, twenty-seventh, twenty-eighth, twenty-ninth, and thirty-second clauses thereof concerning importations of goods by land, and all other acts coming within the purview of this act, except the act, intituled, "An act to impose certain duties," shall be and they are hereby repealed. But any forfeiture or penalty arising under any act hereby repealed, may nevertheless be prosecuted in the same manner as if this act had never been made.

LXIII. This act shall commence and be in force on the twentieth day of January, which shall be in the year one thousand seven hundred and eighty-eight.

CHAP. V.

An act providing a sinking fund for the gradual redemption of the public debt.

[Passed the 14th of December, 1787.]

Sinking fund, how constituted and appropriated, to the extinguishment of the public debt.

I. WHEREAS it will greatly tend to the establishment of public credit, that some part of the revenue of the state shall be applied to the gradual payment of part of the principal of the public debts; and it appearing to the present general assembly that some of the public funds, besides making good the several appropriations thereon charged, yield a surplus which may be advantageously applied in redeeming certain public securities of this state, and of the United States; and by drawing the interest arising on such securities so redeemed as carry interest, and again applying the interest so drawn to the further redemption of like se-

curities, and so perpetually continuing the application thereof, a sinking fund may be established which will in a few years redeem a great proportion of the public debt, and enable government greatly to reduce the present amount of taxes;

II. *Be it therefore enacted by the General Assembly,* That there shall be a fund called and known by the name of the sinking fund; the surplus arising from other funds not particularly appropriated, and such unappropriated money as may, from time to time, be in the public treasury which shall be by law directed to the support of such fund, and such other occasional aids as the general assembly may direct shall constitute the said sinking fund. The said fund shall be conducted and managed and the money therein applied, agreeable to the purposes of this act, in such manner as the governor with the advice of council shall direct.

III. All military certificates, and other public securities which carry an annual interest, and which have been collected in payment of taxes, or which may hereafter be collected in payment of taxes, shall be placed in the sinking fund, and the governor with the advice aforesaid, shall, on behalf of the public, be entitled to warrants for the interest on such certificates now due, or hereafter to become due, and to transfer the said warrants, or to receive the money arising from the fund by law appropriated to the redemption thereof, in like manner as if the same were now held by the persons in whose favor the said securities originally issued.

IV. And whereas by an act passed at the last session of assembly an additional duty was imposed of six shillings per hogshead on tobacco exported, and the money arising therefrom appropriated to the payment of a requisition of congress, which requisition hath by a subsequent act of congress been repealed, and it therefore becomes necessary to make a new appropriation of the money arising from the said duty: *Be it therefore enacted,* That all the nett revenue which may arise from the said additional duty of six shillings per hogshead on tobacco shall be applied in aid of the sinking fund. The governor with advice of council is hereby authorised and required to direct the sale of the public tobacco which hath been received in payment of taxes, to be made either by public or private sale, as to him with the advice aforesaid may seem most for

the public benefit, and either for specie or such public securities as may be deemed most advantageous for the public, having at the same time due regard to the application of the money or public securities arising from the sale of such tobacco agreeable to the appropriations made to specific purposes; and if there shall be any surplus arising from the sales thereof after making good such appropriations the same shall be carried to the aid of the sinking fund.

V. All the money and other aids now appropriated to the sinking fund, or which may hereafter be appropriated to the same, shall be applied to the redemption of such public securities of this state, or of the United States, as may in the opinion of the executive be most for the public benefit, and will contribute in the greatest degree to the increase of the said fund, for which purpose they are hereby authorised and required to invest the money or warrants arising from the interest of the several securities so redeemed, in like manner, to the redemption of the like or other securities so as to render the said sinking fund productive in a compound ratio during its continuance.

VI. All the money in the said fund or which may hereafter be appropriated to the same, shall be applied in manner above mentioned to the redemption of the public securities, and no money shall ever be drawn from the same for any other purpose by construction of any general words in any act of the general assembly, nor by any authority except some act of assembly wherein the application of such money shall be expressly directed and the sinking fund specially named.

VII. The treasurer shall cause to be registered, in a book to be kept for that purpose, all the public securities and certificates which shall come into his office by virtue of this act. An account of which, as well as a fair state of the fund, shall be rendered annually to the general assembly.

VIII. So much of all and every act or acts as comes within the purview and meaning of this act is hereby repealed.

CHAP. VI.

An act declaring tobacco receivable in payment of certain taxes for the year one thousand seven hundred and eighty seven.

[Passed December the 1st 1787.]

WHEREAS it is represented to this present general assembly, that it will be a great relief and ease to the citizens of this commonwealth to enable them to discharge the taxes due for the year one thousand seven hundred and eighty seven under the act, intituled "An act to amend and reduce the several acts of assembly for ascertaining certain taxes and duties and for establishing a permanent revenue into one act," with notes for inspected tobacco; and that this ease may be given to the people without lessening the public revenue, by fixing an equitable price on the tobacco, having regard to the selling price thereof at each ware-house within this state:

Tobacco receivable in payment of certain taxes.

I. *Be it therefore enacted*, That it shall be lawful for any person chargeable with the taxes aforesaid to discharge the same in inspectors receipts or notes for good merchantable crop tobacco not less than nine hundred and fifty pounds nett weight, and not inspected more than one year when offered in payment at the rates hereafter mentioned: At Page's in Hanover town, Byrd's, Shockoe, Rocket's, Rocky Ridge, Manchester, Warwick, and Osborne's at thirty shillings per hundred; at all the ware-houses in and about Petersburg on Appamattox, at twenty-nine shillings per hundred; at all the ware-houses on York and Mattaponi rivers and their branches, from Newcastle to York town inclusive, at the College landing, Hampton, and Deacon's neck, and at all the warehouses from Falmouth to Roy's and Gibson's on Rappahannock inclusive, and at all the ware-houses from the falls of Potowmack to Aquia inclusive, at twenty-eight shillings per hundred; at all the warehouses on the different rivers, creeks, or bays within this commonwealth not herein enumerated at twenty six shillings per hundred, except the warehouses hereafter mentioned, at which

tobacco shall be received at the following rates, to wit, Rivanna at twenty eight shillings per hundred; and at Lynch's at twenty six shillings per hundred; at Crow's ferry and Cresap's at twenty two shillings per hundred; or in transfer receipts or notes for tobacco at the rate of one hundred and ten pounds for one hundred pounds of crop tobacco at any public inspection within this commonwealth. That all tobaccoes received under this act at any of the warehouses within the district commonly called and known by the name of the Kentucky district; which tobacco shall be rated at twenty three shillings per hundred, shall be paid to James Speed, John Cowan, William Montgomery, senior, Richard Clough Anderson, Isaac Shelby, Gabriel Madison, and William Kennedy, gentlemen, who, or any four of them, are hereby appointed commissioners to receive the same to be by them sold for cash, or public securities, and the proceeds to be paid by the said commissioners into the public treasury.

II. *And be it enacted*, That when any sheriff or collector shall have failed to account with the said commissioners within the time prescribed by law for the payment of taxes into the public treasury, that then the supreme court of the said district shall be authorised, upon motion of the said commissioners, to grant judgment and issue execution against such collector and his securities, provided they shall have ten days previous notice thereof.

Sheriffs to make monthly returns, on oath of specific taxes collected, to clerks of county courts

III. *And be it further enacted*, That the sheriffs and collectors, except those of the district of Kentucky; shall give a receipt to each person from whom they collect the taxes, specifying in what the said taxes were paid; and shall monthly make returns, on oath, to the courts of their respective counties, of their collection, inserting in distinct columns of whom received, the amount of the several articles paid, viz. specie, facilities, warrants, crop and transfer tobacco, with the marks, numbers, weights, and warehouses, and shall at the time of making such return make oath that he hath not directly or indirectly, sold, bartered or exchanged any article to or with the person or persons from whom he hath collected taxes, except what was necessarily given in change. And in case any sheriff or collector shall fail making such return, he shall forfeit for every failure, the sum of fifty pounds, to be recovered by mo-

tion, on ten days previous notice being given, which the attorney for the commonwealth in the county where the failure shall be, is hereby required to make and prosecute, and the money so recovered shall be collected and transmitted by the coroner of the county, to the treasury to be applied to public purposes; and any sheriff being convicted of making a false return to the county court shall be liable to the same penalty, and shall moreover be forever thereafter disqualified from holding the office of sheriff or collector in this commonwealth. The clerks of the several courts are hereby required and directed to fix up fair copies of the sheriffs or collectors monthly returns in some conspicuous part of their respective court houses, for public inspection on the next court day after such returns are made; they shall also file a copy thereof and deliver another attested copy to the sheriff or collector, without which being first produced to the auditor of public accounts no sheriff or collector, or any person for him, shall be permitted to make any payment on account of his collection into the treasury. Any clerk neglecting to perform the several duties hereby required of him, shall forfeit and pay the sum of twenty five pounds for every such neglect; to be recovered and applied in the same manner as the forfeitures inflicted by this act on delinquent sheriffs and collectors.

Duty of
clerks.

CHAP. VII.

An act directing the mode of proceeding under certain executions.

[Passed the 4th of January, 1787.]

I. WHEREAS it is represented to the general assembly, that great injury has been sustained both by the debtors and creditors within this commonwealth, by the operation of the present laws concerning executions: For remedy whereof,

Execution
law amended.

II. Be it enacted by the General Assembly, That so much of all and every act and acts of assembly as empowers the sheriffs or other officer levying an execution be repealed.

Three
months replevy
bonds abolished.

cution on the goods or other estate of the debtor, to restore such goods or estate so taken, to the debtor, on his entering into bond with security to pay the money or tobacco for which execution was so served, and all costs, with lawful interest for the same, to such creditor within three months, shall be, and the same is hereby repealed.

Twelve months replevy bonds substituted.

III. *And be it further enacted*, That on all executions hereafter issued, the sheriff or other officer having published notice of the time and place of such sale, at the door of the courthouse of his county on some court day, and at some public place near the residence of the debtor, at least ten days before such sale, shall proceed to sell by auction, the goods or other estate taken under such execution, or so much thereof as shall be sufficient to satisfy the judgment or decree, as the case may be, for the best price that can be got for the same: *Provided always*, That if such goods or other estate cannot be sold for three fourths of their value at the least, in the opinion of the persons hereafter directed to be appointed for that purpose, it shall and may be lawful for the debtor or debtors, or any of them to enter into bond with sufficient securities to be approved by the persons aforesaid, to pay the money or tobacco for which execution was so served, and all costs, with lawful interest for the same, to such creditor, within twelve months. And on such bond being given, the sheriff or other officer shall restore to such debtor the goods or estate so taken. And when no such bond and security shall be offered by the debtor, or any person for him, and the goods or other estate taken in execution, cannot in the opinion of the persons aforesaid, be sold for three fourths of their value at the least, the sheriff or other officer shall set up and sell the same for money or tobacco, as the case may be, to be paid at the end of twelve months, and shall take bond of the buyer or buyers, with one or more sufficient securities to pay the same accordingly, with interest, to such creditor.

Form and effect of such bonds.

IV. *And be it further enacted*, That all and every bond or bonds so taken in pursuance of this act, shall mention that the same was or were entered into for goods or other estate taken in execution and returned to the debtor, or sold to the obligor, as the case may be, and shall have the force of judgments, and also be

assignable. And such sheriff or other officer taking such bond, shall deliver the same to the creditor or his attorney, or return it to the office of the clerk of the court from whence such execution issued, there to be safely kept until demanded by the creditor or his attorney; and if the money or tobacco shall not be paid according to the condition of any such bond, it shall be lawful for the creditor or his assignee to lodge the same, with an affidavit, that the money or tobacco for which such bond was given, or part thereof, is still due, with the clerk of the court from whence the execution issued, and such clerk shall and may thereupon issue an execution for so much as shall appear from the said bond and affidavit to be still due; and upon such execution, the sheriff or other officer shall not take any securities for the payment of the money or tobacco at a further day, but shall levy the same immediately, and sell the property on which the execution shall be so levied for the best price that can be had for the same. *Provided*, That if on return of such execution the debtor can prove the payment of the money for which such execution was levied, either to the assignee or the original obligee, before notice of such assignment, as the case may be, it shall and may be lawful for the court to quash such execution or give such other judgment therein as to them shall seem right, and the person in whose name such execution issued, shall moreover be liable to the action of such debtor for damages. And for the better directions of such sheriff or other officer, the clerk shall endorse upon the back of such execution that no security is to be taken. *Provided*, That nothing in this act shall be construed to extend to any judgment or execution not exceeding the sum of twenty-five shillings; or to any execution against a sheriff, coroner, public collector, or other person legally authorised to receive any part of the public revenue, or to any execution against any such officer for money received by him under an execution or other process; nor to attornies receiving the money of their clients; nor to securities under the act, intituled "An act to empower securities to recover damages in a summary way."

Cases exempted out of this act.

V. *And be it further enacted*, That the court of every county and corporation within this commonwealth, shall appoint nine persons to act as judges of the value

Commissioners to value property ta-

ken in execu-
tion how ap-
pointed.

of the property and the sufficiency of the securities that may be offered under this act, and no sale under execution shall be made but in the presence of at least three of the said persons. *Provided always*, That in any case where the creditor, his agent or attorney, shall be dissatisfied with the sufficiency of the security admitted by such valuers, it shall be lawful for such creditor to appeal to the next court to be held for the county or corporation, thereupon, giving notice thereof to the debtor or his attorney; and if such court shall be of opinion that the security so admitted was insufficient, the execution upon which such security was admitted, shall be deemed and taken as a lien upon the goods and chattels of such debtor, and shall not be discharged but upon payment of the debt and costs, or tender of other sufficient security satisfactory to the court. And moreover the bond and security given by such debtor shall remain valid until such counter security be given. There shall be paid to each of the valuers appointed by virtue of this act, four shillings for each days attendance at any sale, to be taxed in the bill of costs where there is but one execution, and where there shall be more than one execution to be taxed in the bill of costs on each execution, proportioned to the amount thereof; such attendance not being taxed for more than three valuers in any case. And where any property shall be returned to the debtor or sold on twelve months credit under this act, such persons shall give the sheriff or other officer a certificate that in their opinions such property would not sell for three fourths of its real value, and that the security so taken were sufficient: And such certificate shall be returned by the sheriff with the execution, and shall be a full indemnification for him therein. And such sheriff or officer shall be allowed thirty pounds of tobacco for taking such bond, and no more, except such allowance for keeping and removing such property as shall be at the time of entering into such bond certified by the persons aforesaid, to be reasonable. Every person appointed by a court to judge of the value of property taken in execution, and of the sufficiency of securities offered agreeably to the directions of this act, shall, before he proceeds to act under such appointment, take an oath before the court of the county or corporation, or some magistrate thereof, that he will truly and impartially execute the trust reposed in him by this act.

VI. *And be it further enacted,* That nothing in this act shall be construed to extend to any proceedings that may be had in consequence of any distress made or to be made for any rent reserved and due, or which may hereafter become due, upon any demise, lease, or contract whatsoever. Where any writ of *capias ad satisfaciendum*, has been or shall be served on any debtor, it shall be lawful for such debtor to tender to the sheriff or other officer serving the same, property to the value of the debt and costs for which such execution has issued, or may hereafter issue, which property the said sheriff or other officer shall receive and proceed to sell in like manner as is herein directed in the case of goods taken in execution upon a writ of *fieri facias*, and shall thereupon discharge such debtor out of custody.

Not to extend to distress for rent.

On service of execution on the body, debtor may tender property.

VII. *And be it further enacted,* That where any bond directed or permitted to be given by this act, shall be assigned, an execution issued thereon, against the original obligor or obligors, and on such execution there shall be a return by the sheriff or other officer that there were no goods, or not sufficient goods of the obligor or obligors, to make the debt and costs, it shall be lawful for the clerk, who issued such execution, to issue a second execution against the assignor or assignors of such bond, for the debt mentioned therein, or such part thereof as shall appear to be still due; on which execution there shall be similar proceedings to those in an execution against the original obligors.

Remedy against assignors of twelve months bonds

VIII. *And be it further enacted,* That the valuers shall be amenable to their respective county or corporation courts, and at the discretion of such courts may be deprived of their office for neglect of duty or malfeasance therein; and upon the death, resignation, or removal from office of any such valuer, the vacancy shall be supplied by new appointment of the county or corporation court in which it shall happen. When the sheriff shall under any execution have fixed the time and place for the sale of the property taken under such execution, he shall summon three of the commissioners appointed under this act to value the property and ascertain the sufficiency of securities, to attend at the time and place of such sale. If only two of the said commissioners attend, they shall, after the hour of two

Valuers of property, how to proceed,

o'clock, choose one of the by-standers to assist them in such valuation; if only one of the said commissioners shall attend, he shall at the same time and in the same manner choose one of the by-standers, and they shall together choose a third to value such property as aforesaid; if neither of the said commissioners shall attend, the sale shall be postponed until another day, which shall not be longer than ten days, when the same proceedings shall be had as are directed to take place on the day first appointed for the sale. The sheriff shall administer the same oaths to the persons chosen by the commissioners as are directed by this act to be administered to the commissioners by the county or corporation courts.

IX. *And be it further enacted*, That all and every other act and acts, and parts of acts, coming within the purview of this act, shall be, and the same are hereby repealed.

X. This act shall continue in force for three years, and no longer.

CHAP. VIII.

An act concerning the Convention to be held in June next.

[Passed the 12th of December, 1787.]

Convention,
to consider
the proposed
federal con-
stitution, pro-
vision for.

I. WHEREAS it is provided by a resolution of the twenty-fifth day of October last, that the proceedings of the federal convention be submitted to a convention of the people for their full and free investigation, discussion and decision; but no provision hath been made for ascertaining the privileges, or defraying the expences of the members of the said convention, during their session, and travelling to and from the same,

II. *Be it therefore enacted by the General Assembly*, That the members of the said state convention, chosen in conformity to the said resolution of the twenty-fifth day of October last, shall have, possess, and enjoy, in the most full and ample manner, all and every the privilege and privileges which members elected to, and

attending on, the general assembly, are entitled to.— And moreover shall be allowed the same pay for travelling to, attending on, and returning from, the said convention, as is allowed to members of the general assembly for travelling to, attending on, and returning from the same.

III. *Be it further enacted*, That the said convention shall be, and they are hereby empowered to make such reasonable allowances to the officers of the said convention for their services as shall be by the said convention deemed necessary. And whereas it is essential to the safety and happiness of the people of this and other states in the union, that the most friendly sentiments towards each other should be cherished, and the greatest unanimity should prevail at all times, but more particularly during the deliberations concerning the great and important change of government which hath been proposed by the federal convention, and it is necessary to make provision for the payment of such reasonable expences as may be incurred, in case the convention to meet in this state on the first Monday in June next, should deem it necessary to hold any communications with any of the sister states or the conventions thereof which may be then met, or should in any other manner incur any expence in collecting the sentiments of the union respecting the proposed federal constitution, in such manner as to keep up that friendly intercourse and preserve that unanimity respecting any great change of government, which it is the duty and wish of this legislature to promote and cherish:

IV. *Be it therefore enacted*, That a sum of money not exceeding eight thousand pounds shall be reserved in the treasury subject to the order and disposal of the convention appointed to meet in the city of Richmond on the first Monday in June next, for defraying the expences of the members thereof, or any other expences as before mentioned, and that such money shall be made good from the funds now appropriated, or which may hereafter be appropriated, to the support of civil government; and provided the said fund should by any means prove deficient, then such deficiency shall be made good from any unappropriated money in the treasury.

645.

CHAP. IX.

An act to amend the act, intituled An act for establishing a high court of chancery.

[Passed the 2d of January, 1788.]

Rules of practice in High court of chancery, altered.

I. WHEREAS the act, intituled "An act for establishing a high court of chancery," requires amendment, because justice is greatly delayed by the tedious forms of proceedings, suitors are therefore obliged to waste much time and expence, to the impoverishment of themselves and the state, and decrees when obtained are with difficulty carried into execution: For remedying these mischiefs,

II. *Be it enacted*, That from and after the passing of this act, the following rules and alterations, explanations and amendments to the said recited act, shall be observed in all cases to which they apply. Whenever any subpoena in chancery is returned executed, the plaintiff shall within three months thereafter file his bill, and if he fails to do so within that period, the suit shall stand *ipso facto* dismissed, with costs. If the defendant does not file his answer within three months after the plaintiff shall have filed his bill, having also been served with the subpoena at least three months before the said time for filing his answer, the plaintiff may proceed to take his bill for confessed, and proceed in the same manner as in the case of an attachment returned executed, or he may have a general commission to take depositions, or he may move the court to bring in the defendant to answer interrogatories, at his election, and proceed on to hearing in the two last cases, as if the answer had been filed, and the cause was at issue: *Provided*, That the court, for good cause shewn, may allow the answer to be filed, and grant a further day for such hearing. Whenever a general commission shall issue for taking depositions upon answer and replication, six months from the time of the replication shall be allowed the parties for taking their depositions; and either party, at the expiration of the said six months, may set the same for hearing, nor shall any deposition taken after that time be read as evidence on the hearing, except the same was taken

by consent of the parties, by special order of court, or out of the state. After obtaining a final decree for lands, slaves, or money, or things of a similar nature, the clerk of the high court of chancery, shall, upon the request of the party obtaining such decree, issue any writ of execution, either a *fiery facias*, *capias ad satisfaciendum*, *habere facias possessionem*, or any other judicial process which may now issue from the general court, according to the nature of the case, for carrying the said decree into effect; which writs shall issue in the name of the commonwealth, bear teste by the presiding judge for the time being, and be witnessed by the clerk. And all process so to be issued, shall be executed and returned to the clerk's office of the high court of chancery, from term to term, on the return days thereof, by the officer or officers to whom the same shall be directed, and shall have the same operation, and possess the same force to all intents and purposes, as similar process issued from the general court. The officer or officers to whom any such process is directed, shall be subject to the like penalties for misconduct or neglect; and the high court of chancery shall exercise in this, and in all cases relating to such process, the same powers as if the said process had issued from the general court, and as that court could have exercised in a similar case. But nothing herein contained shall prohibit any party from proceeding to carry any order or decree of the high court of chancery into execution, in any manner of which he might avail himself before the passing of this act. An execution may be taken out in all cases where costs are recovered in manner above mentioned. The high court of chancery may, at their discretion, direct an issue to be tried whenever they judge it necessary, either in their own court, or in any other court whatsoever, as justice or convenience to the parties may require. After answer filed, and no plea in abatement to the jurisdiction of the court, no exception for want of jurisdiction shall ever afterwards be made, nor shall the high court of chancery, or any other court, ever thereafter delay or refuse justice, or reverse the proceedings for want of jurisdiction, except in cases of controversy respecting lands lying without the jurisdiction of such court, and also of infants and femes covert. Any judge of the high court of chancery may of judges.

Executions
on final de-
crees.

Saving for-
mer remedy.

Executions
for costs.

Pleas in a-
batement.

Qualification
of judges.

Adjournment
of court.

Appeals.

Depositions,
taken out of
the state.

Absent de-
fendants,
proceedings
against.

qualify and take the appointed oaths of office, either in open court or before the governor and council, and in both cases such qualification shall be recorded in the said court, for which purpose a certificate in the latter case shall be given by the governor of the said qualification. No discontinuance shall take place in any cause, from the non-attendance of a sufficient number of judges to constitute a court, or for the want of a continuing order in any case. The said court shall be considered as standing adjourned from day to day for the first six days of the term, and from thence to the succeeding term, whenever a sufficient number of judges do not attend to constitute a court; and one judge only being present, he may adjourn the court at any time. The said high court of chancery, or any judge out of term-time, shall have power, for good cause shewn, to allow a petition of appeal, and if necessary, order a supersedeas to stop the execution of any decree pronounced by an inferior court, at any time within three years after pronouncing the same; the party praying such appeal and supersedeas, complying with the terms which the said court or judge shall annex to such order. Whenever an appeal is prayed from any inferior court to the said high court of chancery, or bond is given for the removal of any suit in chancery, in any manner whatsoever, it shall be sufficient in either case, if the said bond or bonds shall be executed by good and sufficient securities, although the appellant or party shall not execute the said bond or bonds. Whenever a witness or witnesses shall reside without the state, the said high court of chancery, or any judge thereof, upon an affidavit of the fact, may award a commission or commissions for taking his, her, or their deposition or depositions, to be directed to any persons he or they may think proper; and such deposition or depositions shall be admitted as evidence, if it shall appear that the opposite party had received reasonable notice of the time and place of taking the same. And whereas it hath been doubted, whether the power of the court of chancery to proceed against absent debtors, can be extended to other absent defendants;

III. *Be it enacted*, That in all cases whatever, where a suit is or shall be depending in the court of chancery, concerning any matter or thing whatever

against any absent defendant or defendants, the court may, on satisfactory proof to them made, that such defendant or defendants is or are out of this commonwealth, or that upon enquiry at his, her, or their usual place of abode, he, she, or they could not be found, make any order similar to that which is directed to be made in case of absent debtors, adapting the same to the nature of the case, a copy of which order shall be published in like manner as is directed in case of absent debtors, and thereupon, if the appearance of such absent defendant or defendants be not entered, the complainant may proceed in like manner as if an appearance had been entered. *Provided always*, That where such decree shall be made, such absent defendant or defendants may at any time within seven years, be permitted to file his, her, or their answer, and to shew cause why the said decree should be set aside, upon which the court may make such decree as shall appear to be equitable. And whereas the present mode of executing injunction bonds is liable to great abuse,

IV. *Be it further enacted*, That where any injunction shall be granted, the clerk shall indorse on the subpoena, that the effect thereof is to be suspended until the party obtaining the same shall give bond, with sufficient security, in the office of the court in which the judgment to be enjoined shall have been obtained. The party obtaining the injunction shall then enter into bond, with sufficient security, and file the same in the clerk's office of that court in which the proceedings at law were had; and the clerk shall indorse on the subpoena that the bond is filed. The rules and regulations in this act contained, shall be also observed in the county courts, so far as they apply.

Injunctions
how proceed
ed on.

CHAP. X.

An act to amend the act, intituled An act for reforming the county courts, and for other purposes.

[Passed the 5th of January, 1788]

I. WHEREAS doubts have arisen in the construction of the act, intituled, "An act for reforming the

Proceedings
in county
courts reform
ed.

county courts, and for other purposes," and it is thought expedient that the same should be revised and amended; and to prevent the difficulties that often arise from multiplied laws on the same subject, it is necessary that the whole system should be brought into one point of view.

Quarterly
courts.

11. *Be it therefore enacted by the General Assembly,*

That courts shall be held for each county and corporation on the several court days in the months of March, May, August, and November, for the trial of all presentments and criminal prosecutions, suits at common law and in chancery, where the sum exceeds five pounds or eight hundred pounds of tobacco, depending therein, and continue for the space of six days, unless the business be sooner determined: And if it shall so happen that a sufficient number of justices shall not meet for holding the said courts on the first day of the term, or on any subsequent day thereof, it shall and may be lawful for any one justice to adjourn the court from day to day for the space of three days, and provided such adjournment shall not extend beyond the term limited for the duration of the session. The monthly and quarterly courts shall have concurrent jurisdiction in granting and dissolving injunctions in chancery, and in entering up judgments on attachments against absconding debtors where the property attached shall not be replevied, and except such as are by law finally cognizable before a single justice of the peace, in all petitions for debt, detinue and trover, and in all matters touching the breach of the peace and good behavior, in motions on replevin bonds, and motions against sheriffs and other public officers and defaulters.

Concurrent
jurisdiction
of monthly &
quarterly
courts.

Process re-
turns of

The respective county courts shall sit in the several months not before specified for the transaction of all business cognizable by the said courts, except such as has been herein assigned to the courts of quarter session. All original process to bring any person or persons to answer in any action or suit, indictment or information in the said courts of quarterly session, and all subsequent process thereon, all process in chancery awarded by the said court, and all other writs of what nature soever, shall be made returnable to the first day of the next succeeding quarterly term, except, subpoenas of injunction attachments, petitions and subpoenas for witnesses which shall be returnable to the next suc-

ceeding court, be the same monthly or quarterly, as the case may require. Special bail may be taken in court at the quarterly sessions or at the monthly courts; and any justice of the peace when the courts are not sitting may take recognizance of special bail in any action therein depending, which shall be taken *de bene esse*, and returned by the justice taking the same, to the clerk of the court before the next succeeding quarterly court, to be filed with the papers in such action. And if the plaintiff or his attorney shall except to the sufficiency of the bail so taken by a justice out of court, notice of such intended exception shall be given to the defendant or his attorney at least five days previous to the day at which such exception shall be taken; and if such bail shall be adjudged insufficient by the court, the recognizance thereof shall be discharged, and such proceedings shall be had as if no such bail had been taken. The same proceedings shall be had against the common bail and sheriff in any suit, or either of them, their executors or administrators, and they or either of them may have the same remedy against the defendant or his executors or administrators in the county courts at their quarterly sessions as is directed to be had in any district court in such cases. All imparlances to be taken and pleadings to be filed both in common law and in chancery, until an issue is joined or interlocutory decree or judgment obtained, shall be done at rules to be held monthly in the clerk's office on such days as the courts at their respective quarter sessions shall appoint, which rules shall be distinctly entered in a book to be kept for that purpose, and the clerk shall be allowed the same fees for entering such rules, as if the same had been made in court. And all rules to declare, plead, reply, and for other proceedings, shall be given from month to month, and shall be made and entered with the clerk of the court in the same manner as rules are made and entered with the clerks of the district court in suits depending in them. *Provided nevertheless*, That the court may at their quarterly session next after any of the said rules and proceedings have been had in the clerk's office, for good cause to them shewn, set aside any of the said rules and proceedings, and make such order concerning the same as to them may appear just and right. The clerk shall proportion the causes upon the docket from the first day

Special bail.

Common bail.

Rules, in clerk's office.

of the court to the sixth, both inclusive, if in his opinion, so many days will be expended in trying the causes ready for trial, and issue subpoenas for witnesses to attend on the days to which the causes stand for trial.

**Docketting
causes.**

He shall docket the causes in order as they are put to issue, and no cause shall be removed from its place on the docket unless where the plaintiff at the calling the same be unprepared for trial, in which case, and no other, shall the cause be put at the end of the docket.

**Depositions,
when & how
taken.**

When any witness resides out of this commonwealth, and within any other of the United States, or shall be about to depart the same, or by age, sickness or otherwise, shall be unable to attend in person, upon affidavit thereof, the court when sitting, or any justice thereof in vacation, may on request of either party direct a commission to be issued by the clerk of the court to two or more justices of the peace for taking the deposition of such witness, *de bene esse*, but the party obtaining such commission shall give reasonable notice to the adverse party of the time and place of taking such deposition, otherwise the same shall be void. If any party in any suit at common law or in chancery shall make oath that he verily believes his claim or defence, or a material point thereof, depends on a single witness, the court, or any justice thereof, may direct a commission to issue from the clerk of the court to two or more justices of the peace to take the deposition of such witness, *de bene esse*, although he or she be not about to depart the commonwealth, nor under any disability, the party in such case giving reasonable notice of the time and place of taking the same to the adverse party. When any witness resides beyond sea or in any foreign country, upon affidavit thereof, the court when sitting may, on request of either party, direct a commission to issue from the clerk's office, directed to such commissioners, not exceeding five, as shall be nominated and agreed upon by the parties litigant, for which purpose, the party applying for a commission in such cases shall give the adverse party, his attorney or agent, ten days previous notice of the day of his intended application to the court, without which no such commission shall issue; and if the adverse party, his attorney or agent, shall not attend for the purpose, in that case the party praying the commission, may nominate the commissioners himself, any three of

whom in either case may proceed to execute the said commission: *Provided nevertheless*, That in either case, reasonable notice shall be given to the adverse party of the time and place of taking such deposition, and the costs of giving any such notice as aforesaid, as well as of taking any deposition or depositions in any or either of the United States, or beyond sea, may be taxed by the court against the party who, in their opinion, ought in justice to pay the same. If any person attending before any county court referees or commissioners, appointed to take his or her deposition within this commonwealth, shall refuse to give evidence on oath or affirmation, as the case may be, to the best of his or her knowledge, any person so refusing, shall be committed to prison, either by the court referees or commissioners, there to remain, without bail or mainprise, until he or she shall give such evidence. Notice in writing of motions upon replevin bonds, and against delinquent sheriffs and other officers, if left with the wife or other free person over the age of twenty-one years, other than a negro or mulatto, belonging to the family of such obligor, sheriff, or other officer, ten days before the making such motion, and at his or their usual place of abode, upon affidavit thereof being made, shall be deemed sufficient. The county courts, at their quarterly sessions, shall have similar jurisdiction with the high court of chancery, and shall proceed in the same manner against the estate and effects of persons residing out of this state, or absconding to avoid being served with the process of the said court; and may hear and determine all caveats against grants for lands lying within the jurisdiction of the said courts respectively, except within the counties composing the district of Kentucky. The person entering a caveat against the issuing a grant upon any survey, shall take from the surveyor of the county, or from the register's office, a certified copy of such survey and plat, which, within thirty days from the entering such caveat, he shall deliver to the clerk of the county where the suit is instituted, or such caveat shall be void, and the clerk thereupon shall make due entry thereof in a book kept by him for that purpose, and issue a summons, commanding the defendant to appear on the first day of the next succeeding quarterly court, to defend his or her right; and on such process being

Witnesses refusing to testify.

Notices on motion.

Foreign attachments.

Caveats

Returns of
executions.

Office judg-
ments.

Appeals.

Sheriffs fail-
ing to return
executions,
fines on.

Negligence
of attorneys.

returned executed, the same proceedings shall be had thereon, as by law are directed in similar cases in the district courts. All writs of execution upon judgments obtained in the quarterly or monthly courts, and all executions and other process to enforce any decree in chancery, obtained in either of the said courts, may be made returnable to the first day of a quarterly or monthly court, provided there be not less than fifteen nor more than ninety days between the teste and return of such execution or process. Where any final judgment shall be entered up in the office against any defendant or defendants, and their securities, or against any defendant or defendants, and sheriff, by default, execution may issue thereon after the next succeeding quarterly court, unless the same be set aside during such court, in like manner as office judgments in the district courts may be set aside; and all office judgments so set aside, shall be immediately put at the end of the issue-docket, and tried the same court in turn with the other issues, unless the plaintiff shall wave his right of trial until the next quarterly term. The right of appeal from the county and corporation courts to the district courts, shall be exercised in the same manner as hath heretofore by law been accustomed from the county to the general court.

III. *And be it further enacted*, That where any writ of execution or attachment, for not performing a decree in chancery, shall come into the possession of any sheriff, coroner, or serjeant of a corporation, and he shall fail to return the same to the office from whence it issued, on or before the return day thereof, it shall be lawful for the court, upon ten days previous notice being given, upon the motion of the party injured, to fine such sheriff, coroner, or serjeant, at their discretion, in any sum not exceeding five pounds per month, for every hundred pounds contained in the judgment or decree on which the execution or attachment so by him detained has been founded, and so in proportion for every greater or lesser sum. And where the execution or attachment has been founded upon a judgment or decree for the specific performance of an act or thing, in any sum not exceeding fifty pounds, the fines shall be to the use of the party injured, and at his request an execution shall issue therefor, and be indorsed by the clerk, that no security of any kind shall be taken. If

any suit shall be dismissed for the non-attendance of an attorney practising either in the superior or inferior courts, not having a just and reasonable excuse, it shall be at his costs, and he shall moreover be liable for all damages his client shall sustain by such dismissal, or any other neglect of his duty, to be recovered in any court of record in this state. And every attorney receiving money for his client, and refusing to pay the same when demanded, shall be proceeded against in a summary way, on notice, before any court of record, in the same manner that sheriffs are liable to be proceeded against for money received on executions.

Attornies fail-
ing to pay cli-
ents their mo-
ney.

IV. *And be it further enacted*, That after obtaining a final decree for lands, slaves, or money, or things of a specific nature, the clerk of the county court shall, upon the request of the party obtaining such decree, issue any writ of execution, either a *feri facias*, *capias ad satisfaciendum*, *habere facias possessionem*, or any judicial process which may now issue from such court, according to the nature of the case, for carrying the said decree into effect; which writ shall issue in the name of the commonwealth, and bear teste, and be signed by the clerk of the court: And all process so issued shall be executed and returned to the clerk's office from which the same issued, from term to term, on the return days thereof, by the officer or officers to whom the same shall be directed, and shall have the same operation and possess the same force to all intents and purposes, as similar process issued upon judgments at common law. The officer or officers to whom any such process is directed, shall be subject to the like penalties for misconduct or neglect; and the county court shall exercise in this, and in all cases relating to such process, the same powers as if the said process had issued upon a judgment obtained at common law: But nothing herein contained shall prohibit any party from proceeding to carry any order or decree of the county court in chancery into execution, in any manner in which he might avail himself before the passing of this act. No bail shall be demanded on a writ of *capias ad respondendum*, which shall be issued against a resident of one county in any other, until a *non est inventus* has been returned in the county in which the defendant resides, upon a *capias* issued in the same suit against such defendant; and every writ issued

Executions
on decrees.

Not to affect
former reme-
dy.

Bail.

contrary thereto, without an indorsement of "no bail required," shall be voidable at any time before issue joined, or judgment by default, nil dicit; or non sum informatus thereon, but not afterwards: *Provided*, That no such writ issuing from the county in which the cause of action accrued, shall be voidable by reason of bail being required thereon.

Certain court days altered. V. *And be it further enacted*, That the court of quarter sessions for the counties of Bourbon, Madison, and Fayette, heretofore held in the months of March and November, and which has been found to interfere with the sessions of the district of Kentucky, shall from and after the first day of May next, be held in the months of February and October, instead of the said months of March and November. And that the courts of quarterly sessions in the counties of Washington, Montgomery, Russel, and Pendleton, shall be held on their respective court days in the months of April, June, September, and November in every year.

VI. So much of every act or acts as comes within the purview of this act, shall be, and the same is hereby repealed.

CHAP. XI.

An act to encourage the speedy payment of arrearages of taxes into the public treasury.

[Passed the 20th of December, 1787.]

Arrearages
of taxes, pri-
or to 1787,
how paid.

I. WHEREAS many judgments have been obtained in behalf of this commonwealth against sheriffs, for taxes due prior to the year one thousand seven hundred and eighty-seven, together with interest and damages thereon and costs; and it is judged expedient that such sheriffs should be exonerated from the payment of a larger sum than will reimburse the public;

II. *Be it therefore enacted by the General Assembly*, That it shall and may be lawful for every sheriff or collector, against whom any judgment hath been or shall

be obtained, for taxes due prior to the said year one thousand seven hundred and eighty-seven, to discharge the same by the payment of the principal sum, together with six per centum per annum interest thereon, and costs; any law to the contrary thereof notwithstanding.

III. *Provided always*, That no sheriff or collector shall be entitled to the benefit of this act, unless he shall make payment of one half the amount of such judgment, on or before the first day of April next, and also full payment of the balance on or before the first day of August next. And whereas doubts have arisen under the act, to empower the high sheriffs to proceed in a summary way against their deputies, and for other purposes, whether the executors and administrators of the high sheriff shall be entitled to the remedy provided by the said recited act against the under sheriff of such sheriff; Remedy of executors & administrators of high sheriffs against their deputies.

IV. *Be it further enacted*, That in case of the death of any high sheriff, the executors and administrators of such high sheriff shall have the same remedy against the under sheriffs of the said sheriff and their securities, his and their executors and administrators, as is provided in the said recited act in case of the high sheriff.

CHAP. XII.

An act to amend an act, for establishing a district court on the western waters.

[Passed the 4th of December, 1787.]

I. WHEREAS all the citizens of this commonwealth are entitled to uniform government, and it is doubtful whether the laws that have passed since the establishment of the supreme court for the district of Kentucky, regulating the proceedings to be had in the high court of chancery and the general court, do extend to the said supreme court, in those cases where that court is not particularly named; Laws regulating high court of chancery and general court, extended to supreme court of Kentucky.

II. *Be it enacted by the General Assembly, and it is hereby declared,* That all laws that have been enacted since the establishment of the said supreme court, and that hereafter may be enacted, relative to the jurisdiction of the high court of chancery and general court of this state, and for regulating judicial proceedings in either of them, do, and shall extend to the said supreme court, in all cases, where for public conveniency it is not in such acts otherwise provided, and the said supreme court expressly excepted.

III. *And be it further enacted and declared,* That the said supreme court has been, and shall be at all times subsequent to the institution thereof, invested with the same powers, and subject to the same regulations within the said district, as by law has been or shall from time to time be exercised by the said high court of chancery and general court in the other parts of the state; and that all conveyances for lands within the said district, and all deeds admitted to record in the said supreme court, on due proof, acknowledgment, or certificate; all licences granted by examiners appointed by the said court, or by the judges thereof, to attorneys, counsellors, or proctors at law for the district, with all and every other proceeding and proceedings in the said supreme court, which are conformably to the proceedings of the said high court of chancery and general court, as the case requires, and that are authorised by law at the time being, are and shall be, and are hereby declared to be good and valid; any seeming ambiguity or contrariety that is in the laws hereto respecting notwithstanding. And whereas it has been represented to the present general assembly, that the proceeds of the deputy register's office in the district of Kentucky, are become inadequate to the payment of the annual salaries of the judges and attorney-general of the said district, and of consequence the business of the said deputy register much diminished; and as it is reasonable that salaries and services ought to bear a just proportion to each other,

IV. *Be it further enacted,* That from and after the passing of this act, the deputy register of the said district shall receive for his services, the sum of one hundred pounds per annum, and no more.

V. *And be it further enacted,* That if the sum arising from the said deputy register's office should, after the

reduction of his salary as aforesaid, prove inadequate to the discharge of the salaries of the said judges and attorney-general, as directed by act of assembly, that then, at the end of each term or quarter, the said judges and attorney-general shall make a settlement with the deputy register for their quarterly salaries, and take a certificate from him of the balance at that time due to them, or each of them respectively; which said balance shall, on presentation of the said certificate, be paid off by the clerk of the said district court, or of any of the county courts within the said district, if so much money be in his or their hands, out of the money arising from the tax on ordinary licences, law process, alienation of lands, or the tax laid by the general assembly of this state, in the year one thousand seven hundred and eighty-six, on his or their annual fees; and all such certificates, with the proper receipts on them, of his or their having actually paid the money as aforesaid, shall be credited to him or them in the settlement of their accounts, in the same manner as if such money had been by them paid into the treasury. And whereas it is further represented to this general assembly, that it is attended with inconvenience and expence to the parties concerned, without producing any benefit to this commonwealth, for the sheriff and other officers belonging to the said supreme court of the district of Kentucky, to apply to the treasury of this commonwealth, for the payment of the salaries or stipends allowed them for their several services;

VI. *Be it further enacted*, That from and after the passing of this act, the said district court, at the end of each term, shall proceed to make an allowance to each of their said officers, according to what they shall adjudge an equivalent to their services respectively, not exceeding the allowance given to the like officers of the general court or high court of chancery aforesaid; which allowance respectively shall be entered by the clerk of the said district court on his minute-book, and an attested copy thereof be by him delivered to each of the said officers respectively; which attested copy or copies may be by such sheriff, or other officer, presented to the clerk of the said district court, or any of the county court clerks within the said district; which clerk or clerks, after paying off the deficiency to the judges aforesaid, if any such deficiency should happen,

shall immediately, out of the monies then remaining in his or any of their hands, arising from the taxes aforesaid, pay to such sheriff or officer aforesaid his just demand; which payments also shall be allowed the clerk or clerks in their settlement with the treasurer as aforesaid. And as it has also been represented, that many suitors have been prevented from the speedy execution of their business in the said supreme court, on account of the short duration of the terms of the said court,

VII. *Be it therefore enacted*, That the judges may continue to sit twenty-four days (Sundays excluded) in each of the months of June and September.

VIII. *And be it further enacted*, That every other act, clause, or clauses, so far as the same falls within the purview of, or may be deemed contradictory to this act, shall be, and the same is hereby repealed.



CHAP. XIII.

An act for cutting a navigable Canal from the waters of Elizabeth river, in this State, to the waters of Pasquotank river, in the State of North Carolina.

[Passed December 1, 1787]

I. WHEREAS the cutting of a navigable canal from the waters of Elizabeth river, in this state, to the waters of Pasquotank river in the state of North Carolina, will be of great public utility, and many persons are willing to subscribe large sums of money to effect so beneficial a work, and it is just and proper that they, their heirs and assigns, should be empowered to receive reasonable tolls for ever, in satisfaction for the money advanced by them in carrying the work into execution, and the risk they run; therefore, *Be it enacted by the General Assembly of Virginia*, That it shall and may be lawful to open books in the towns of Norfolk, Portsmouth, Suffolk, Petersburg, Richmond,

Act for cutting a navigable canal, from the waters of Elizabeth river, in Virginia, to the waters of Pasquotank river in N. Carolina.

York, Fredericksburg, and Alexandria, under the management of George Kelly in Norfolk; of John Cowper in Portsmouth; of Wells Cowper in Suffolk; of Christopher McConnico in Petersburg; of James Heron in Richmond; of Thomas Nelson in York; of William Lewis in Fredericksburg, and of William Hartshorne in Alexandria; and under the management of such persons and at such places in North Carolina as shall be appointed by that state for receiving and entering subscriptions to the amount of eighty thousand dollars for the said undertaking, which subscriptions shall be made personally or by power of attorney, and shall be in Spanish milled dollars, but may be paid in other silver or in gold coin of the same value. That the said books shall be opened for receiving subscriptions on the first day of May next, and continue open until the first day of September next inclusive; and on the nineteenth day of the said month of September there shall be a general meeting of the subscribers at Halifax in the state of North Carolina, of which meeting, notice shall be given by the said managers, or any three of them, in the gazettes of both the aforesaid states at least one month next before the said meeting, and such meeting shall and may be continued from day to day until the business is finished. And the acting managers shall, at the time and place aforesaid, lay before such of the subscribers as shall meet according to the said notice the books by them respectively kept, containing the state of the said subscriptions; and if one half the capital sum aforesaid, should on examination appear not to have been subscribed, then the said managers are empowered to take and receive subscriptions to make up the deficiency; and a just and true list of all the subscribers with the sums subscribed by each shall be made out and returned by the said managers, or any four or more of them, under their hands into the general court of this state, and into such court as the state of North Carolina shall direct, to be there recorded.— And in case more than eighty thousand dollars shall be subscribed, then the same shall be reduced to that sum by the said managers or a majority of them, by beginning at and striking off from the largest subscription or subscriptions, and continuing to strike off a share from all subscriptions under the largest and above one

share, until the sum is reduced to the capital aforesaid of eighty thousand dollars, or until a share is taken from all subscriptions above one share; and lots shall be drawn between subscribers of equal sums, to determine the number, in which such subscribers shall stand on a list to be made for striking off as aforesaid; and if the sum subscribed still exceeds the capital aforesaid, then they shall strike off by the same rule until the sum subscribed is reduced to the capital aforesaid, or all the subscriptions are reduced to one share; and if there still be an excess, then lots shall be drawn to determine the subscribers who are to be excluded to reduce the subscriptions to the capital aforesaid, which striking off shall be certified in the list aforesaid, and the said capital sum shall be reckoned and divided into three hundred and twenty shares of two hundred and fifty dollars each, of which every person subscribing may take and subscribe for one or more whole shares, and not otherwise.

II. *Provided*, That unless one half of the said capital shall be subscribed, all subscriptions made in consequence of this act shall be void, and in case one half and less than the whole of the said capital shall be subscribed as aforesaid, then the president and directors are hereby empowered and directed to take and receive the subscriptions which shall be first offered, in whole shares as aforesaid, until the deficiency shall be made up; a certificate of which additional subscriptions shall be made under the hands of the president and directors, or a majority of them for the time being, and returned to, and recorded in the courts as aforesaid.

III. *And be it enacted*, That in case one half of the said capital, or a greater sum shall be subscribed as aforesaid, the said subscribers, and their heirs and assigns, from the time of the said first meeting, shall be and are hereby declared to be incorporated into a company by the name of the Dismal Swamp Canal Company, and may sue and be sued as such; and such of the said subscribers as shall be present at the said meeting, or a majority of them are hereby empowered and required to elect a president and four directors for conducting the said undertaking and managing all the said companies business and concerns, for and during such time not exceeding three years, as the said subscribers or a majority of them shall think fit; and in

counting the votes of all general meetings of the said company, each member shall be allowed one vote for every share as far as ten shares, and one vote for every five shares above ten by him or her held at the time in the said company; and any proprietor by writing under his or her hand executed before two witnesses, may depute any other member or proprietor to vote and act as proxy for him or her at any general meeting.

IV. And be it enacted, That the said president and directors so elected, and their successors, or a majority of them assembled, shall have power and authority to agree with any person or persons on behalf of the said company, to cut the said canal and to erect such locks and perform such other works as they shall judge necessary for the navigation of the said canal, and carrying on the same from place to place, and from time to time, and upon such terms, and in such manner as they shall think fit, and out of the money arising from the subscriptions and tolls and other aids hereafter in this act given to pay for the same and to repair and keep in order the said canal, locks, and other works necessary thereto, and to defray all incidental charges, and also to appoint a treasurer, clerk, and such other officers, toll-gatherers, managers, and servants, as they shall judge requisite, and to agree for and settle their respective wages or allowances, and settle, pass, and sign their accounts, and also to make and establish rules of proceeding and transact all the other business and concerns of the said company in and during the intervals between the general meetings of the same; and they shall be allowed as a satisfaction for their trouble therein, such sums of money as shall by a general meeting of the subscribers be determined.

V. Provided always, That the treasurer shall give bond in such penalty and with such security, as the said president and directors or a majority of them shall direct for the true and faithful discharge of the trust reposed in him, and that the allowance to be made to him for his services shall not exceed three pounds in the hundred for the disbursements by him made, and that no officer in the said company shall have a vote in the settlement or passing of his own account. *And be it enacted,* That the said president and directors, and their successors, or a majority of them, shall have full power and authority from time to time, as money

shall be wanting, to make and sign orders for that purpose, and direct at what time, and in what proportion the proprietors shall advance and pay off the sums subscribed, which orders shall be advertised at least one month in the North Carolina and Virginia gazettes; and they are hereby authorized and empowered to demand and receive of the several proprietors from time to time, the sums of money so ordered to be advanced for carrying on and executing, or repairing and keeping in order the said works, until the sums subscribed shall be fully paid; and to order the said sums to be deposited in the hands of the treasurer, to be by him disbursed and laid out, as the said president and directors, or a majority of them shall order and direct; and if any of the said proprietors shall refuse or neglect to pay their said proportions within one month after the same so ordered and advertised as aforesaid, the said president and directors, or a majority of them, may sell at auction and convey to the purchaser, the share or shares of such proprietor so refusing or neglecting payment, giving at least one months notice of the sale in the North Carolina and Virginia gazettes; and after retaining the sum due and charges of sale out of the money produced thereby, they shall refund and pay the overplus, if any, to the former owner; and if such sale shall not produce the full sum ordered and directed to be advanced as aforesaid with the incidental charges, the said president and directors, or a majority of them, may, in the name of the company, sue for and recover the balance by motion on ten days previous notice; and the said purchaser or purchasers shall be subject to the same rules and regulations, as if the said sale and conveyance had been made by the original proprietor.

VI. And to continue the succession of the said president and directors and to keep up the same number, *Be it enacted*, That from time to time, on the expiration of the term for which the said president and directors were appointed, the proprietors of the said company at the next general meeting shall either continue the said president and directors or any of them, or shall choose others in their stead; and in case of the death, removal, resignation or incapacity of the president or any of the directors, may and shall in manner aforesaid elect any other person or persons to

be president and directors in the room of him or them so dying, removing, resigning or becoming incapable of acting, and may at any of their general meetings remove the president or any of the directors and appoint others for and during the remainder of the term for which such person or persons were at first to have acted.

VII. *And be it enacted*, That every president and director, before he acts as such, shall take an oath or affirmation for the due execution of his office.

VIII. *And be it enacted*, That the presence of proprietors having one hundred and eighty shares at least, shall be necessary to constitute a general meeting, and that there be a general meeting of proprietors on the first Monday in September in every year, at such convenient town, as shall from time to time be appointed by the said general meeting; but if a sufficient number should not attend on that day, the proprietors who do attend may adjourn such meeting from day to day, till a general meeting of proprietors shall be had, which may be continued from day to day until the business of the company is finished, to which meeting the president and directors shall make report, and render distinct and just accounts of all their proceedings, and on finding them fairly and justly stated, the proprietors then present or a majority of them shall give a certificate thereof, a duplicate of which shall be entered on the said companies books; and at such yearly general meetings, after leaving in the hands of the treasurer such sum as the proprietors or a majority of them shall judge necessary for repairs and contingent charges. An equal dividend of all the nett profits arising from the tolls hereby granted shall be ordered and made to the proprietors of the said company in proportion to their several shares; and on any emergency in the interval between the said yearly meetings, the president or a majority of the directors may appoint a general meeting of the proprietors of the company at any convenient town, giving at least one months previous notice in the North Carolina and Virginia Gazettes, which meeting may be adjourned and continued as aforesaid.

IX. *And be it further enacted*, That for and in consideration of the expences the said proprietors will be at, not only in cutting the said canal, erecting locks,

making causeways and performing other works necessary for this navigation, but in maintaining and keeping the same in repair, the said canal, locks, causeways, and other works, with all their profits, shall be and the same are hereby vested in the said proprietors, their heirs and assigns for ever, as tenants in common in proportion to their respective shares, and the same shall be deemed real estate, and be forever exempt from the payment of any tax imposition or assessment whatsoever, and it shall and may be lawful for the said president and directors at all times for ever hereafter to demand and receive at some convenient place near one of the extremities of the canal, for all commodities transported through it or over the causeways, tolls, according to the following table and rates which shall be in Spanish milled dollars, to wit:

Parts of a dollar.

Every pipe or hogshead of wine containing more than sixty five gallons.	30 72nds.
Every hogshead of rum or other spirits.	24 72nds.
Every hogshead of tobacco.	24 72nds.
Every hogshead of molasses.	18 72nds.
Every butt or hogshead of malt liquor.	18 72nds.
Every cask between sixty five and thirty-five gallons, one half of a pipe or hogshead; every barrel, one fourth part; and every smaller cask or keg in proportion according to the quantity and quality of their contents,	" "
Every dozen of bottled wine,	5 288ths.
Every dozen of bottled malt liquor,	4 288ths.
Every bushel of wheat, pease, beans, rice, or flax seed,	3 288ths.
Every bushel of Indian corn, or other grain, or salt,	2 288ths.
Every barrel of pork,	6 72nds.
Every barrel of beef,	4 72nds.
Every barrel of fish or flour,	3 72nds.
Every barrel of tar, pitch, turpentine, or rosin,	2 72nds.
Every cask of linseed oil or spirits of turpentine, the same as molasses,	" "
Every ton of hemp, flax, pot ash, or bar iron,	36 72nds.

Every ton of pig iron or castings,	12 72nds.
Every ton of copper, lead, or other ore, other than iron ore,	30 72nds.
Every ton of stone or iron ore other than the ballast of the vessel,	6 72nds.
Every chaldron of coals,	8 72nds.
Every hundred bushels of lime or of shells,	20 72nds.
Every thousand of bricks or tiles,	30 72nds.
Every hundred of pipe staves,	6 72nds.
Every hundred of hog-head staves or pipe or hoghead heading,	4 72nds.
Every hundred of barrel staves or barrel heading,	3 72nds.
Every thousand shingles from eighteen to twenty four inches,	3 72nds.
Every thousand of three feet shingles,	6 72nds.
Every thousand clapboards or pails,	9 72nds.
Every cord of fire wood,	12 72nds.
Every hundred cubic feet of plank or scantling,	40 72nds.
Every hundred cubic feet of all other timber,	30 72nds.
Every hundred pounds of brown or clay- ed sugar,	3 72nds.
All other produce, goods, wares, or mer- chandize, one fourth per centum,	" "
Every boat or vessel exceeding one ton burthen which has not commodities on board to yield so much (except an emp- ty boat or vessel returning, whose load has already paid the toll, in which case she is to repass free of toll.)	40 72nds.
Every canoe, boat, or vessel, under one ton burthen which has not commodities on board to yield so much except as in the preceding article excepted.	18 72nds.
Every man (except foot travellers, who shall pass toll free) horse, ox in draft, and wheel passing the causeways (except the loads they carry yield so much, or empty waggons or carts re- turning, whose load has paid the toll.)	6 72nds.
Every head of black cattle,	3 72nds.
Every hog,	1 72nds.

Every sheep,	2 288ths.
Every hundred weight of indigo.	12 72uds.

X. All produce, goods, wares, or merchandize, passing the causeways shall be subject to the same toll, as goods passing through the canal; but which tolls though chargeable in Spanish milled dollars may be paid in other silver or in gold coin of the same value. And in case of refusal to pay the tolls at the time of offering to pass the place aforesaid, and previous to passing the same, the collector of the said tolls may lawfully refuse passage to whatever refuses payment, and if any vessel, waggon, or cart, shall pass without paying the toll, then the said collector may seize such vessel, waggon, or cart, wherever found and sell the same at auction for ready money, which, so far as is necessary, shall be applied towards paying the said toll, and all expences of seizure and sale, and the balance, if any, shall be paid to the owner, and the person having the direction of such vessel, waggon, or cart, shall be liable for such toll, if the same is not paid by the sale as aforesaid. *Provided*, That the said proprietors or a majority of them holding at least one hundred and eighty shares, shall have full power and authority, at any general meeting, to lessen the said tolls or any of them, or to determine that any article may pass free of toll.

XI. *And be it enacted*, That the said canal and works to be erected thereon in virtue of this act, and the causeways, when completed, shall forever thereafter be esteemed and taken as public highways, free for the transportation of all goods, wares, commodities, or produce whatsoever; and for travelling on payment of the tolls imposed by this act, and no other toll or tax whatever for the use of the water of the said canal and the works thereon erected, or the causeways, shall at any time hereafter be imposed by both or either of the said states, subject nevertheless to such regulations as the legislatures of the said states may concur in, to prevent the importation of prohibited goods, or to prevent fraud in evading the payment of duties imposed in both or either of the said states on goods imported into either of them.

XII. And whereas it is necessary for the making of the said canal, locks, causeways, and other works, that

a provision should be made for condemning a quantity of land for the purpose,

XIII. *Be it enacted*, That it shall and may be lawful for the said president and directors, or a majority of them to agree with the owners of any land, through which the said canal is intended to pass, for the purchase thereof, and in case of disagreement, or in case the owner thereof shall be a feme covert, under age, non-compos, or out of the state; on application to any two justices of the county in which such land shall lie, the said justices shall issue their warrant under their hands to the sheriff of their county to summon a jury of eighteen inhabitants of his county of property and reputation, not related to the parties nor in any manner interested, to meet on the land to be valued at a day to be expressed in the warrant, not less than ten nor more than twenty days thereafter, and the sheriff, on receiving the said warrant shall forthwith summon the said jury, and when met, provided that not less than twelve do appear, shall administer an oath or affirmation to every jurymen that shall appear, "That he will fairly, justly, and impartially value the land (not exceeding the width of three hundred feet) and all damages the owner thereof shall sustain by cutting the canal through such land, according to the best of his skill and judgment, and that in such valuation he will not spare any person through favour or affection, nor any person grieve through malice, hatred or ill will." And the inquisition thereon taken shall be signed by the sheriff and some twelve or more of the jury, and returned by the sheriff to the clerk of his county, to be by him recorded, and on every such valuation the jury is hereby directed to describe and ascertain the bounds of the land by them valued, and their valuation shall be conclusive on all persons, and shall be paid by the said president and directors to the owner of the land or his legal representatives, and on payment thereof the said company shall be seized in fee of such land as if conveyed by the owner to them and their successors by legal conveyance.

XIV. *Provided nevertheless*, That if any farther damage shall arise to any proprietor of land in consequence of opening such canal or in erecting such works, than had been before considered and valued, it shall and may be lawful for such proprietor as often as

any such new damage shall happen, by application to and a warrant from any two justices of the county where the lands lie, to have such farther damage valued by a jury in like manner and to receive and recover the same of the said president and directors. But nothing herein shall be taken or construed to entitle the proprietor of any such land to recover compensation for any damages which may happen to any mills, or other works, or improvements which shall be begun or erected by such proprietor after such first valuation, unless the said damage is wilfully or maliciously done by the said president and directors, or some person by their authority.

XV. *And be it enacted*, That the said president and directors or a majority of them are hereby authorized to agree with the proprietor or proprietors for the purchase of a quantity of land not exceeding one acre, at or near the place of the receipt of tolls aforesaid for the purpose of erecting necessary buildings, and in case of disagreement or any of the disabilities aforesaid, or the proprietor being out of the state, then such land may be valued, condemned, and paid for as aforesaid, and the said company shall on payment of the valuation of the said land be seised thereof in fee-simple as aforesaid.

XVI. And whereas it is represented that the waters of the lake in the Dismal Swamp commonly called Drummond's Pond, may be useful for a supply of water to the said canal,

XVII. *Be it enacted*, That the said lake, so far as the waters thereof shall be necessary for the purpose aforesaid, shall be and is hereby vested in the proprietors of the said canal, and it shall and may be lawful for the said president and directors or a majority of them, to open, if they shall find it expedient, a cross canal from the lake to the principal canal for the purpose of drawing from thence a supply of water, and for executing this work and keeping it in repair, they shall have the same powers which they are authorized to exercise in opening the principal canal. And it shall not be lawful for any person whatsoever so to cut off or divert the courses of those waters, which now flow from the westward into the said lake as to prevent their continuing to fall into it.

XVIII. And whereas some of the places through which it may be necessary to conduct the said canals may be convenient for erecting mills and other water works, and the persons possessors of such situations may design to improve the same, and it is not the intention of this act to interfere with private property but for the purpose of improving and perfecting the said navigation.

XIX. *Be it enacted*, That the water or any part thereof conveyed through the said canals shall not be used for any purpose but navigation, unless there shall be sufficient to answer both the purposes of navigation and water works aforesaid, in which case the said president and directors, or a majority of them, are hereby empowered and directed to enter into reasonable agreements with the proprietors of such situations concerning the just proportion of the expences of making the canals capable of carrying such quantities of water as may be sufficient for the purposes of navigation and also for any such water works as aforesaid.

XX. And whereas the said canals may be of great utility in affording the means of draining the sunken lands through which they pass.

XXI. *Be it enacted*, That it shall and may be lawful for the proprietors of the said adjacent sunken lands to open cross ditches into the said canals, provided, that these cross ditches shall not be within less than one mile of one another on the same side of the canals, and be covered where they pass through the causeways with good bridges of the breadth of the causeways at the expence of the persons cutting them, and also be so constructed that the water may be entirely prevented passing through them into the canals at any time, when this shall be necessary. And the works occasioned by these cross ditches, except the bridges, shall be kept in repair at the expence of their proprietors.

XXII. *And be it enacted*, That it shall and may be lawful for every of the said proprietors to transfer his share or shares by deed executed before two witnesses, and registered after proof of the execution thereof in the said company's books and not otherwise, except by devise, which devise shall also be exhibited to the president and directors, and registered in the company's

books before the devisee or devisees shall be entitled to draw any part of the profits from the said tolls.—
Provided, That no transfer whatsoever shall be made, except for one or more whole share or shares, and not for part of such shares, and that no share shall, at any time, be sold, conveyed, transferred, or held in trust for the use and benefit, or in the name of another, whereby the said president and directors, or proprietors of the said company or any of them shall or may be challenged or made to answer concerning any such trust, but that every such person appearing as aforesaid to be a proprietor, shall, as to the others of the said company be to every intent taken absolutely as such, but between any trustee and the person for whose benefit any trust shall be created the common remedy may be pursued.

XXIII. And whereas it hath been represented, that sundry persons are willing and desirous on account of the public advantage, and also the improvement their estates may receive thereby, to promote and contribute towards so useful an undertaking and to subscribe sums of money to be paid on condition the said works are completed and carried into execution, but do not care to run any risque, or desire to have any property therein:

XXIV. *Be it therefore enacted*, That the said president and directors shall be, and are hereby empowered to receive and take in subscriptions on the said conditions, and on the said works being completed and carried into execution according to the true intent and meaning of this act, that it shall and may be lawful for the said president and directors, or a majority of them, in case of refusal or neglect of payment, in the name of the company as aforesaid, to sue for and recover of the said subscribers, their heirs, executors, or administrators, the sums by them respectively subscribed, by action of debt, or on the case in any court of record within this state.

XXV. *And be it enacted*, That if the said capital and the other aids already granted by this act shall prove insufficient, it shall and may be lawful for the said company from time to time to increase the said capital by the addition of so many more whole shares, as shall be judged necessary by the said proprietors or a majority of them holding at least one hundred and

eighty shares present at any general meeting of the said company. And the said president and directors, or a majority of them, are hereby empowered and required after giving at least one month's notice thereof in the North Carolina and Virginia gazettes, to open books at the before mentioned places for receiving and entering such additional subscriptions, in which the proprietors of the said company for the time being shall and are hereby declared to have the preference of all others for the first thirty days after the said books shall be opened as aforesaid, of taking and subscribing for so many whole shares as any of them shall choose. And the said president and directors are hereby required to observe in all other respects the same rules therein as are by this act prescribed for receiving and adjusting the first subscriptions, and in like manner to return under the hands of any three or more of them an exact list of such additional subscribers with the sums by them respectively subscribed into the courts as aforesaid, to be there recorded. And all proprietors of such additional sums shall and are hereby declared to be from thence forward incorporated into the said company.

XXVI. *And it is hereby declared and enacted*, That the tolls herein before allowed to be demanded and received, are granted and shall be paid on condition only, that the said Dismal Swamp Canal Company shall make the canal thirty two feet wide, and eight feet in depth below the surface of the earth, and capable of being navigated in dry seasons by vessels drawing three feet water, from Deep Creek near Tucker's mill in Virginia to the highest good navigation for vessels of the aforesaid draft in Pasquotank river in North Carolina, with sufficient locks each of ninety feet in length and thirty two feet in breadth, and capable of conveying vessels drawing four feet water at the least, and that each of the causeways shall be twenty feet in breadth.

XXVII. *And it is hereby enacted and provided*, That in case the said company shall not begin the said work within one year after the company shall be formed, or if the said company shall not complete the navigation and works as aforesaid within ten years after the said company shall be formed, then shall all interest of the said company and all preference in their favour, as to

the navigation and tolls of the said canals and causeways, be forfeited and cease.

XXVIII. And whereas at a meeting of commissioners appointed by the states of North Carolina and Virginia to agree on the form of an act for cutting the said canal, and for regulating the commerce which may be carried on through it between the citizens of the two states, to wit: Archibald Maclaine, William M'Kenzie, James Galloway, and John Stokes, esquires, on the part of North Carolina, and Robert Andrews and John Cowper, esquires, on the part of Virginia, at Fayette-Ville, in the state of North Carolina, on the twelfth day of December in the year of our Lord one thousand seven hundred and eighty six, the following compact was mutually agreed to by the said commissioners: First. The state of Virginia agrees that the waters of Elizabeth river from the said canal to the mouth thereof, the waters of Hampton road and of Chesapeake bay to the capes, and also Roanoke river wherever it is in Virginia, shall be forever considered as a common highway free for the use and navigation of all vessels belonging to the state of North Carolina or any of its citizens, and that they shall not be therein subject to the payment of any toll or charge whatever, imposed for the purpose of raising a revenue. Secondly. The state of Virginia agrees that no restriction, duty, or impost, shall be laid on any commodity, which is the growth, produce, or manufacture, of the state of North Carolina, brought through the said canal or over the said causeways for sale or exportation, and that the same may be exported without reinspection. Thirdly. The state of Virginia agrees that when any imported goods shall within five months after entry be exported through the said canal or over the said causeways into the state of North Carolina in packages, bales, or casks, as imported, the duties thereof shall be remitted or repaid as the case may be to the exporter, on his producing within six months after the aforesaid entry the certificate of the naval officer of the district of North Carolina, into which the said canal enters, that the said goods have been entered there. Fourthly. The state of North Carolina agrees that the waters of Roanoke river, Meherrin, Nottaway, Chowan, Albemarle Sound, as low as the mouth of Pasquotank river, and of Pas-

quotation, from the mouth thereof to the said canal shall be forever considered as a common highway free for the use and navigation of all vessels belonging to the state of Virginia or any of its citizens, and that they shall not be subject therein to the payment of any toll or charge whatever imposed for the purpose of raising a revenue. Fifthly. The state of North Carolina agrees that no restriction, duty or impost shall be laid on any commodity which is the growth, produce, or manufacture, of the state of Virginia, passing through the aforesaid waters to the said canal, or brought through the said canal or over the said causeways for sale or exportation, and that the same may be sold or exported without reinspection. In those articles where it is expressed that no duty or impost is to be laid for the purpose of raising revenue it is not to be understood that the imposition of tolls for the purpose of improving the navigation of the said waters is prevented. Sixthly. The state of North Carolina agrees that when any imported goods shall within five months after entry be exported through the said canal or over the said causeways into the state of Virginia, in packages, bales, or casks, as imported, the duties thereof shall be remitted or repaid as the case may be to the exporter on his producing within six months after the aforesaid entry the certificate of the naval officer of Norfolk, that the said goods have been entered there. Seventhly. Imported goods passing from one part of either of the said two states to another part of the same, through any of the waters of the other state, shall not be subject to any duty imposed for the purpose of raising a revenue. Lastly. The citizens of each of the said two states may have the use of the inspections of the other, for the purpose of reinspecting any damaged commodities, which have passed through the said canal, on paying the price of the labour of reinspection and no more.

XXIX. And whereas this general assembly are of opinion that the said compact is made on just and mutual principles for the true interest of both governments.

XXX. *Be it therefore enacted*, That the said compact is hereby approved, confirmed and ratified, by the general assembly of the state of Virginia, and that every article, clause, matter, and thing, therein contained, shall be obligatory on this state and the citizens thereof,

and shall be forever faithfully and inviolably observed and kept by this government and all its citizens, according to the true intent and meaning of the said compact, and the faith and honour of this state are hereby solemnly pledged and engaged to the general assembly of the state of North Carolina and the government and citizens thereof, that this law shall never be repealed or altered by the legislature of this state, without the consent of the state of North Carolina. Every act or part of an act of assembly which comes within the purview and meaning of this act, shall be, and the same is hereby repealed. This act shall commence and be in force from and after the passing of a like act by the general assembly of North Carolina.

CHAP. XIV.

An act for establishing a marine hospital for the reception of aged and disabled seamen.

[Passed December 20, 1787.]

Marine hospital established.

I. WHEREAS the tax imposed on seamen hath produced a fund sufficient for the purpose of erecting a hospital for the reception of aged, sick, and disabled seamen, and it is just and proper that the same should be applied to the laudable purpose for which it was originally intended.

II. *Be it therefore enacted by the General Assembly,* That the governor with the advice of council, shall, and he is hereby authorised to appoint seven commissioners for the purpose of erecting a hospital for the reception of aged, sick, and disabled seamen at Washington in the county of Norfolk. In case of the death, resignation, or refusal to act of any of the said commissioners, the governor with advice of council shall supply such vacancy. The commissioners so to be appointed are hereby empowered to purchase a piece or parcel of land in the said town of Washington, and to contract

for the building thereon a commodious house or houses fit for the reception and accommodation of such aged, sick, and disabled seamen as they may from time to time think proper to admit into the same; to provide a surgeon, keeper and matron to the said hospital, with necessary nurses for the assistance and relief of such poor seamen, and to provide all necessaries for their comfortable support and maintenance, and in general from time to time to make and ordain all such rules, orders, and regulations for the better establishing and governing such hospital as to them shall seem necessary. The said commissioners shall, so soon as they have purchased the land, and contracted for the building of the necessary houses thereon, lay before the executive a clear statement of their proceedings, and an estimate of the expence attending the same, who shall thereupon direct the auditor of public accounts to grant a warrant upon the treasurer to the said commissioners for such sum or sums of money as shall be necessary for the completion of the same, which warrant shall be paid by the treasurer out of the marine fund. The said commissioners shall also once in every three months lay before the executive an account of all the expences incurred in the support of the said hospital, and the same being examined and approved, the governor with the advice of council, shall direct the auditor of public accounts to grant a warrant in the manner before directed, which shall be paid by the treasurer out of the same fund. The commissioners shall continue in office during good behaviour, to be judged of by the executive, and in case any one of them shall be removed, the executive shall supply the vacancy occasioned thereby.

CHAP. XV.

An act directing the sale of certain public lands.

[Passed January 2, 1788.]

I. *BE it enacted by the General Assembly, That* ^{Public lands,} *the public lands lying in the counties of James City* ^{in James city,} *and North-*

ampton, formerly annexed to office of secretary, to be held.

and Northampton, formerly annexed to the office of secretary, shall be, and they are hereby vested in Nathaniel Burwell, Samuel Beall, Dudley Digges, Joseph Hornsby, John Pierce, John Stringer, Littleton Savage, Peter Bowdoin, Edmund Custis, and John Cropper, gentlemen, commissioners, who, or any three of them are hereby authorized and required to make sale of the same in the manner and on the terms hereafter prescribed. Previous notice shall be given of the sale at least sixty days in the Virginia Gazette, and the commissioners shall dispose of the lands by public auction, on the premises, to the highest bidder on the day appointed, if fair, if not, the next fair day, for specie or any of the public securities of this state bearing an interest of six per cent. the commissioners previously agreeing among themselves, and publishing to the bidders at what rate the securities will be received in lieu of specie. The purchasers under this act shall have six months credit for one third of the purchase, twelve months credit for another third, and eighteen months credit for the remaining one third, upon giving bond and security payable to the governor and his successors for the use of the commonwealth; but if the specie or public securities, as the case may be, shall not be paid at the time they become due the commissioners or any one of them may and shall move for a judgment against the purchaser or purchasers, in the court of the county where he or they reside, given ten days notice of such motion.

II. And whereas the year may be considerably advanced before the sale of the lands aforesaid can be effected. *Be it further enacted*, That the commissioners may if to them it shall appear for the public benefit, rent the same for the year one thousand seven hundred and eighty-eight, and give the purchaser or purchasers possession the first day of January one thousand seven hundred and eighty-nine. The commissioners shall after receiving the full amount of the sales aforesaid execute in behalf of the public, conveyances in fee to the purchasers, and pay the specie and public securities arising from the rents and sales into the public treasury; there to be appropriated and applied in aid of the sinking fund, after deducting two per cent. from the amount of the rents and sales for their trouble, or such of them as may execute the same.

CHAP. XVI.

An act to repeal an act, intituled An act for the establishment of courts of assize and for other purposes.

[Passed January 5, 1788.]

I. *BE it enacted by the General Assembly, That the act intituled "An act for establishing courts of assize," shall be, and the same is hereby repealed. And that so much of every act or acts of assembly as prohibits an attorney from practising at the same time in the superior and inferior courts, shall be, and the same is hereby repealed, except only that no attorney shall be permitted to prosecute in a superior court, an appeal from a judgment or decree of any inferior court, where he shall have appeared in the inferior court for the appellant.*

Act establishing courts of assize repealed.
Attornies may practice in superior & inferior court but not prosecute appeals where they had appeared for the appellant.

II. *And be it further enacted, That from and after the first day of July next, the presence of five judges of the general court shall be necessary to constitute a court any law to the contrary notwithstanding.*

Number of judges to constitute general court.

CHAP. XVII.

An act for the relief of persons who have been or may be injured by the destruction of the records of county courts.

[Passed the 17th of December, 1787]

I. *WHEREAS the records of several county courts within this commonwealth, and other papers of consequence, have been or may be destroyed by fraud, accident, or otherwise, to the great injury of the citizens of this commonwealth: For relief therefore of such persons whose estates, titles, or interests have been or may be affected thereby,*

Preamble.

Records destroyed, how re-instituted.

II. Be it enacted by the General Assembly, That the courts of the counties where any such losses may have accrued, or shall hereafter accrue, when any original deeds, with an indorsement of the acknowledgment or proof thereof, and order for recording the same, attested by the clerk of the court, or the copies of any deeds with the indorsement so attested, or any wills, with the indorsement of the proof and the order for recording the same, or of any judgment, decree, or order of the court, in like manner attested, or of any inventory or other document before admitted to record in such court, and of all bonds, bills, notes, and all other papers necessarily filed in the office of such county, (the original of the same being lost or otherwise destroyed) shall be produced to them, shall order the clerk again to record all such original deeds, copies of deeds, or wills, with the said indorsements respectively; and all such copies of judgments, decrees, and orders of the court of their county, or of inventories or other documents; and the said clerk, when he shall have recorded any thing in pursuance of this act, shall indorse on the same that the original had been lost or destroyed, and shall make an entry to the same effect on the record with the thing recorded, which shall have the same operation and effect in law, to all intents and purposes, as the original record would have had.

Fees of clerks.

III. And be it also enacted, That the clerks of the several counties shall do and perform the services in this act mentioned for the same fees that are allowed by law in other cases, for a copy of any thing herein before-mentioned; and in like manner, shall take no other or greater fee for recording any deed which hath been already recorded, or shall be made only by occasion of the misfortune aforesaid, for settling the right or title of any person or persons whatsoever, to lands and tenements, slaves, or goods and chattels, than in other cases is or shall be allowed by law for the copy of any such deed; any law, usage or custom to the contrary notwithstanding.

Commissioners to be appointed by executive.

IV. And be it further enacted, That it shall and may be lawful for the governor, with the advice of council, to issue one or more commissions, as the case may require, under the seal of the commonwealth, to nine able and discreet persons directed, giving them or any of them full power and authority to meet at some

convenient place, by them to be appointed, and to adjourn from time to time as they shall think fit, and to summon, hear, and examine all witnesses, at the instance of any person, touching the premises, and to take their depositions in writing, and to return the same with such commission or commissions, to the executive; which depositions shall be by them laid before the general assembly at the next session, to the end that they may be enabled to grant such effectual relief to the sufferers by the loss of the said records as to them shall seem just and reasonable. And the said commissioners shall have power to appoint some person skilled in clerkship to attend them for keeping a journal of their proceedings, and drawing the depositions aforesaid; which person shall be paid for his services by each county respectively.

CHAP. XVIII.

An act to authorise the courts of the several counties and corporations within this commonwealth, to appoint inspectors of lumber.

[Passed the 13th of December, 1787.]

BE it enacted by the General Assembly, That it shall be lawful for the courts of the several counties and corporations within this commonwealth, to appoint so many inspectors of lumber within their respective limits as they shall deem necessary. The inspectors so to be appointed, shall in all cases be governed by the same rules and regulations, be subject to the same penalties, and have the same allowance for their services, as are prescribed by an act passed at the last session of the general assembly, intituled "An act authorising the courts of the counties of Norfolk, Princess-Anne, and borough of Norfolk, to appoint inspectors of lumber." If any master, commander, or skipper of any ship or vessel, shall take on board for exportation any lumber

Inspectors of lumber may be appointed in each county and corporation.

not duly inspected and passed from any port or place within any county or corporation where such inspectors have been or shall be appointed, he shall be subject to the same penalties as are imposed by the said recited act upon the master, commander, or skipper of any vessel taking on board for exportation lumber not duly inspected and passed from any port or place of Elizabeth river.

CHAP. XIX.

An act to empower the county courts in the district of Kentucky, to establish ferries within the same.

[Passed the 4th of December, 1787.]

County
courts in Ken-
tucky author-
ised to estab-
lish ferries.

BE it enacted by the General Assembly, That the courts of the several counties within the district of Kentucky, if a majority of the magistrates, or not less than seven of each county be sitting, shall be, and they are hereby empowered, to establish public ferries across those rivers or creeks within their respective counties, wherever they shall deem it necessary: Provided nevertheless, That no such ferry shall be established, unless the parties owning lands on both sides of any such river or creek, shall have had one month's notice, that application would be made for the establishment of such ferry. Where any river or creek shall be the boundary line between two counties, and any person owning land on either side of the said river or creek, shall wish to have a public ferry across the same, he or she shall apply to the court of the county in which his or her land lies, who are hereby authorised to establish such ferry from the land of such person to the opposite shore. And if any person shall think himself or herself aggrieved by the establishment of a public ferry or ferries by the county courts under this act, he or she shall have the right of appeal, or of obtaining a writ of error or supersedeas to the supreme court of the district from such determination or judgment, upon giving bond and security in like manner as is directed in other cases.

CHAP. XX.

*An act to supply the defect of evidence
of the royal assent to certain acts
of assembly under the former go-
vernment.*

[Passed the 14th of December, 1787]

I. WHEREAS divers acts of the general assembly Preamble,
of Virginia, as well public as private, were passed du-
ring the former regal government, with clauses therein
for their suspension until the royal approbation there-
of respectively should be obtained, a notification of
which assent when transmitted hither from Great
Britain, was registered in the council books of that
time; but as most of those books were lost or destroyed
during the late war, persons who may be interested to
prove the fact of such assent having been obtained, are
deprived of that highest species of evidence, whereby
many citizens may be involved in expensive and trou-
blesome contentions, and in the private cases purcha-
sers may lose not only their purchase money, but valu-
able improvements: For remedy wherein,

II. Be it enacted by the General Assembly, That from
and after the passing of this act, when in any court of Evidence of
royal assent
to act of as-
sembly, how
supplied.
law or equity a question shall arise, whether an act of
assembly passed with a clause suspending such act un-
til the royal approbation thereof was obtained, hath
received such approbation; every such question shall
be discussed upon such evidence and circumstances as
may be produced by the parties, without requiring ei-
ther party to shew the official assent to such act, or a
certificate from the council books that such assent was
registered therein; any law, usage, or custom to the
contrary notwithstanding.

CHAP. XXI.

An act prescribing the method of proving certain wills.

[Passed the 2d of January, 1788.]

Preamble.

I. WHEREAS it frequently happens that the wills of persons dying possessed of property within this commonwealth, are attested by persons who reside out of the jurisdiction of the courts thereof, so that they cannot be compelled by any legal process to attend for the purpose of proving such wills;

Proof of wills
by witnesses
residing out
of the state,
how effected,
in general
court, and in
Kentucky.

II. *Be it therefore enacted by the General Assembly,* That it shall be lawful for the general court, or the supreme court of the district of Kentucky, when any will shall be produced to them for probate, and any witness or witnesses attesting the same, shall reside out of the jurisdiction of the said courts respectively, to issue a commission or commissions annexed to such will, and directed to the presiding judge of any court of law, to any notary-public, mayor, or other chief magistrate of any city, town, corporation, or county where such witness or witnesses may be found, empowering him to take and certify their attestations. If the person to whom any such commission shall be directed, shall certify in the manner such acts are usually authenticated by him, that the witness or witnesses personally appeared before him, and made oath, or affirmed, as the case may require, that the testator signed and published the writing annexed to such commission, as his last will and testament, or that some other person signed it by his direction, that he was of disposing mind and memory, and that he or they subscribed their names thereto in his presence, and at his request, such oath or affirmation shall have the same operation, and the will be recorded in like manner, as if such oath or affirmation had been made in the court from whence such commission issued.

In county
courts.

III. *And be it further enacted,* That it shall be lawful for any county court, when any will shall be produced to them for probate, and any witness or witnesses attesting the same shall reside out of the limits of this commonwealth, or out of the jurisdiction of the su-

preme court of that part of the country in which such county may be, to issue commissions in the manner before directed; and upon the return thereof, with the attestations before-mentioned duly authenticated, such wills shall be recorded in like manner as if such commissions had issued from the general court, or the supreme court of the district of Kentucky. And whereas the wills of sundry persons dying in the district of Kentucky, have been proved and recorded in the general court, and in the courts of counties not within the said district, and the said wills cannot now be removed to the county where any such person may have died;

IV. *Be it therefore enacted by the General Assembly,* That it shall be lawful for the court of any county within the said district of Kentucky, in which any person died whose will has been recorded in the general court, or in the court of any county not within the said district, to qualify the executors, or to grant certificates for obtaining letters of administration, upon an attested copy being produced to them of any such will, with a certificate that the same has been duly proved and recorded in any such court. And whereas the intercourse between this state and the other states in the union, and between this state and foreign nations, has become more considerable than heretofore, which renders it necessary that some mode should be adopted, to give authenticity to wills of persons dying within any of the United States of America, or in any foreign kingdom, state, nation, island, or colony beyond sea, and out of the jurisdiction of this state, having lands, goods, chattels, debts, or demands within this state, as well as to policies of insurance, charter-parties, powers of attorney, or other agreements in writing, foreign judgments, and specialties on record, registers of births, marriages, made, executed, entered into, given, and enregistered, by and between persons residing in any of the United States, or in any foreign kingdom, state, nation, or colony beyond sea, and out of the jurisdiction of this state:

Courts in Kentucky, may admit qualification, on attested copies of wills, &c.

V. *Be it enacted,* That copies of wills of such persons made, or hereafter to be made, and duly proved according to the laws of such other state in the union, kingdom, nation, island, or colony beyond sea, or of any place or places out of the jurisdiction of this state,

Wills executed in foreign countries, how proved here.

where the testator shall have died, attested by the bishop, register, commissary, clerk, or other officer to whose custody such will, shall by the laws of such state, kingdom, nation, island, or colony, have been committed; to which copy shall be affixed a testimonial, and the seal of the city, county, corporation, or borough where such office is held, or of a notary-public residing in such city, county, corporation, or borough, or of the great seal of such state, kingdom, nation, province, island, or colony beyond sea, and out of the jurisdiction of this state, shall be admitted to record in the general court, in the same manner as if the original will or wills had been proved in open court by the witnesses thereto, and copies of the same certified by the clerk of the said court, shall be admitted in evidence in all courts within this state, as if the original will or wills had been proved in the said court.

Notary public, attestation of policies, powers of attorney, &c. valid.

VI. *And be it further enacted,* That all policies of insurance, charter-parties, powers of attorney, foreign judgments, specialties on record, registers of birth, and marriages, which have been made, executed, entered into, given, and enregistered in due form according to the laws of such state, kingdom, nation, province, island, or colony, and attested by a notary-public, with a testimonial from the proper officer of the city, county, corporation, or borough where such notary-public shall reside, or the great seal of such state, kingdom, province, island, colony, or place beyond sea, shall be evidence in all the courts of record within this commonwealth.

Executors may take probate of foreign wills, after recorded.

VII. *And be it further enacted,* That all persons named as executors in any such will, shall after the copy thereof has been admitted to record as above directed, be entitled to a probate of the said will, in the same manner as if the original will had been proved in such court. And where there shall be no executors named in the said will, or the executors therein named shall all of them refuse the executorship, the court shall have the same power and authority to hear and determine the right of administration, and to grant a certificate for obtaining letters of administration with the will annexed, as if the original will had been proved in court.

CHAP. XXII.

An act to explain and amend the acts for preventing fraudulent gifts of slaves.

[Passed the 31st of December, 1787.]

Preamble.

I. WHEREAS by an act of general assembly, made in the year of our Lord. one thousand seven hundred and fifty eight, intituled "An act for preventing fraudulent gifts of slaves," after reciting in the preamble thereof that many frauds have been committed by means of secret gifts made or pretended to have been made of slaves by parents and others, who have notwithstanding remained in possession of such slaves, as visible owners thereof, whereby creditors and purchasers have been frequently involved in expensive law suits, and often deprived of their just debts and purchases: for the prevention thereof it was enacted, that from and after the passing of the said recited act, no gift of any slave or slaves shall be good or sufficient in law to pass any estate in such slave or slaves to any person or persons whatsoever, unless the same be made by will duly proved and recorded, or by deed in writing, to be proved by two witnesses at the least, or acknowledged by the donor, and recorded in the general court, or the court of the county where one of the parties lives within eight months after the date of such deed or writing. And whereas in the general construction of the said recited act, and of one other act of general assembly, made in the year of our Lord, one thousand seven hundred and fifty seven, also intituled "An act for preventing fraudulent gifts of slaves," it has been understood that the same were not intended to interfere between the donor and donee, further than to prevent deceptions and frauds, and that the enacting parts of the said acts extended only to secret gifts of slaves, and whereof the donor retained possession, and not to gifts where the possession had been in the donee. And many parents and others have since the passing of the said recited acts, made gifts of slaves to their children and others, without deed in writing, and such donees have continued in possession of the slaves so given under a delivery at the time of making, or

after such gifts, by which the donees have been considered as the owners of such slaves, and have obtained credit thereby. And whereas, from a late adjudication in a question arising on the said recited acts, it was determined that all gifts of slaves since the said acts are void, unless made in writing or confirmed by will, as in the said acts is directed; which late adjudication, by disquieting and disturbing possessions, will tend to produce infinite disputes and litigation, and contrary to the intention of the donors, to deprive children of the provisions made for them by their deceased parents, injure husbands who have married women possessed of slaves under such gifts, defraud creditors and purchasers of and under such donees, and multiply the mischiefs the said acts were intended to remedy: For prevention whereof,

Construction of acts to prevent fraudulent gifts of slaves.

II. *Be it enacted by the General Assembly, That the* said recited acts for preventing fraudulent gifts of slaves, shall from and after the passing of this act, be construed to extend only to gifts of slaves whereof the donors have, notwithstanding such gifts, remained in possession, and not to gifts of such slaves as have at any time come into the actual possession of, and have remained with the donee, or some person claiming under such donee.

III. *Provided always, That* nothing in this act contained shall be construed to alter any adjudication heretofore made under the said two recited acts, or either of them, nor to affect the interest of any *bona fide* purchaser for a valuable consideration, or creditor of the donor, before the donee hath been at least three years in possession of the slave or slaves under such gift; nor in any manner to restrain or affect the operation of the act of limitations.

CHAP. XXIII.

An act respecting the appointment of county court clerks, recommendation of surveyors, and for other purposes.

[Passed the 8th of January, 1788.]

I. WHEREAS it sometimes happens the courts of the counties within this commonwealth are so divided in the appointment of their clerks, that neither of the candidates can be elected, whereby great inconveniences arise to the suitors in such courts, and like inconveniences may happen in the recommendation of surveyors:

II. *Be it therefore enacted by the General Assembly,* That whensoever the court of any county within this commonwealth shall be so divided in the appointment of a clerk, or in the recommendation of a surveyor, that neither of the candidates shall be elected, or in the case of a surveyor recommended, it shall be lawful for the high sheriff of such county, and he is hereby required, to give his vote in favor of one of those candidates, between whom the court shall be divided. And whereas by an act, intituled "An act to extend the powers of the governor and council," it is amongst other matters therein contained, enacted "that upon any charge being made against a justice of the peace for misconduct, neglect of duty, or mal-practices, it shall and may be lawful for the governor, with advice of the council, to enquire into the charge, and if the facts alledged be proved, he in that case may, with the advice aforesaid, remove such justice from the execution of his office." And whereas so much of the said act, as above recited, appears to the present assembly to be contrary to the true spirit of the constitution, which declares "that the legislative, executive, and judiciary departments, shall be separate and distinct, so that neither exercise the powers properly belonging to the other;"

III. *Be it therefore enacted,* That so much of the said act, to extend the powers of the governor and council, as is above recited, shall be, and the same is hereby repealed.

Courts equally divided, in appointments of clerks and surveyors, the high sheriff to decide.

Act empowering governor and council to remove justices of the peace, repealed.

CHAP. XXIV.

*An act giving a more speedy remedy
against delinquent subscribers to
the Potowmack and James river
companies.*

[Passed the 1st of December 1787.]

Remedy by
motion a-
gainst delin-
quent sub-
scribers to
James river
and Potow-
mack compa-
nies.

1. WHEREAS it hath been represented to the general assembly, that the opening of the navigation in Potowmack and James rivers, hath been retarded by the failure of many of the members of the companies, instituted for the purpose of effecting the same, to pay their respective subscriptions: And whereas the mode of recovery now established by law hath been found wholly inadequate thereto; and works of such general utility to which the commonwealth hath already advanced several sums of money from time to time, as the same have been called for, ought not to be frustrated by the delinquency of individuals:

11. *Be it therefore enacted by the General Assembly,* That if any subscriber to the Potowmack or James river company now is, or hereafter shall be in arrear for any sum or sums of money called for in pursuance of either of the two acts of general assembly, the one intituled "An act for opening and extending the navigation of Potowmack river," and the other intituled "An act for opening and extending the navigation of James river," it shall and may be lawful for a majority of the directors of each company to recover any such sum or sums of money from such subscriber in the general court at any additional or other session thereof, together with all legal costs, by way of motion to the court; provided the person against whom such motion may be made, hath ten days previous notice thereof. *Provided also,* That if the person against whom such motion may be made, or his attorney, shall desire a jury to be impannelled, the court shall direct a jury to be immediately charged to try whether he did assume to pay, and whether he hath paid: But the said directors shall not be required to prove that he did so assume, until he shall have first made oath that he did

not so assume. And it shall be lawful for the said court to direct judgment to be entered up on the verdict rendered, with costs, and execution shall issue thereupon, returnable to any day of the said session of the general court which the said court shall direct.

III. So much of the said recited acts of assembly, as comes within the purview of this act, is hereby repealed.

IV. *Provided always*, That so much of this act as relates to the Potowmack company, shall be suspended, until the legislature of the state of Maryland, shall pass a law to the same effect.

CHAP. XXV.

An act for the preservation of the entries made for lands in the district of Kentucky.

[Passed the 20th of December, 1787.]

I. WHEREAS it has been represented to this general assembly, that the entry-books now in possession of the county-surveyors respectively, within the district of Kentucky, are from continual use so much worn and defaced, that many entries for lands are scarcely legible, and as the title of many good people of this commonwealth to the lauds held by them within the aforesaid district, may eventually depend on their entries for the same;

Entries for
lands in Ken-
tucky, to be
transcribed
in well bound
books.

II. *Be it enacted*, That the surveyor of each county within the district aforesaid, shall transcribe in their regular order, into well bound books, all original entries for lands made in his office since the county took place, whereof he is surveyor. And as it is represented, that the surveyor of Jefferson is in possession of the entry-books, containing the entries made in the county of Kentucky, before the division of the same into the counties of Lincoln, Jefferson, and Fayette,

III. *Be it enacted*, That the said surveyor of Jefferson, shall, in like manner, copy all original entries

made in the said county of Kentucky, until the division aforesaid took place,

IV. *And be it further enacted*, That the books into which the entries shall be so transcribed, shall be furnished to the surveyor by the county lieutenant of each county respectively, to be by him purchased out of the money which now may or hereafter shall be in his hands, arising from militia fines. And so soon as any surveyor shall have copied such entries as aforesaid, he shall give information thereof to the judges of the supreme court of the said district, who shall, and they are hereby authorised and directed, to appoint one or more person or persons, being magistrates in such county, together with such surveyor, carefully to examine the copies so made out, and compare the same with the originals; and shall, together with such surveyor, certify at the end of such book the number of copies of entries therein contained, and that they are faithfully transcribed; which said book or books shall be by them delivered to the clerk of the supreme court of the said district, to be kept in his office, and shall thereafter be deemed a legal record; and all copies therefrom certified by the said clerk, shall be admitted as evidence in any court of record, in the same manner as if taken from the original entry-book, and certified by the surveyor of the county.

V. *And be it further enacted*, That each surveyor shall be allowed the sum of four-pence halfpenny, for each entry by him copied as aforesaid; for which sum the judges of the supreme court aforesaid, are hereby authorised and required to grant to such surveyor or surveyors, their certificate or certificates, which shall be receivable in payment of all taxes arising in said district.

CHAP. XXVI.

An act prescribing the oaths of office to judges of the district courts.

[Passed the 8th of January, 1788.]

Oath of judges
of district
courts.

1. WHEREAS by an act passed the present session of assembly, intituled "An act establishing district

courts," it is enacted that each of the judges, besides the oaths now particularly required, shall take another as judge of the district courts, according to the direction of an "Act for establishing a general court," but no provision is made for conforming the oath of office to the nature of district courts;

II. *Be it enacted*, That all the judges, besides the oaths by law prescribed for their separate departments, shall as soon as may be, after the commencement of the first recited act, take the oaths prescribed by the act, intituled "An act establishing a general court," adapting the same to the nature of district courts, to be administered by any court of record, or before a judge or justice thereof, and the taking thereof shall be recorded in some district court. *Provided always*, That any judge may act as a judge of any district court until the next succeeding session of his particular court, before he shall have taken the oath prescribed to him as a judge of such particular court.

III. So much of the above recited act as comes within the purview of this act, shall be, and the same is hereby repealed.

CHAP. XXVII.

An act for establishing several new ferries.

[Passed the 19th of December, 1787.]

I. *BE it enacted by the General Assembly*, That public ferries shall be constantly kept at the following places, and rates for passing the same as followeth, that is to say: From the land of Henry Fitzhugh, at the upper end of the town of Fredericksburg, across Rapahannock river, to the land of William Fitzhugh on the opposite shore, for a man three pence, and for a horse the same; from the land of Jesse Martin, near the mouth of Crooked run, in the county of Monongalia, across Monongalia river, to James Hord's on the opposite shore, for a man three pence, and for a horse the

New ferries
established,
and their
rates.

same; from the land of the said Jesse Martin, near the mouth of Robertson's run, in the county of Monongalia, across Monongalia river to the land of David Scott on the opposite shore, for a man three pence, and for a horse the same; from the land of Charles Lynch, at the lead mines, in the county of Montgomery, across New river to the opposite shore, for a man three pence, and for a horse the same; from the land of Cuthbert Bullit, in the county of Prince-William, across the mouth of Quantico creek to the opposite shore, for a man six pence, and for a horse the same; from the land of James Cleland, in the county of Monongalia, across Cheat river to the opposite shore, for a man three pence, and for a horse the same; from the land of Andrew Ramsey, in the county of Monongalia, across Cheat river to the land of William Morgan on the opposite shore, for a man three pence, and for a horse the same; from the land of William Morgan, in the county of Monongalia, across Cheat river to the land of Andrew Ramsey, on the opposite shore, for a man three pence, and for a horse the same; from the land of Robert Wood, in the county of Ohio, across Ohio river to the opposite shore, for a man six pence, and for a horse the same; from the land of Joseph Echolls, in the county of Halifax, across Staunton river to the opposite shore, for a man three pence, and for a horse the same; and from the land of John Henderson in the county of Ohio, across Ohio river to the opposite shore in the state of Washington, for a man six pence, and for a horse the same: And for the transportation of wheel carriages, tobacco, cattle, and other beasts, at the places aforesaid, the ferry-keepers may respectively demand and take the same rates as are by law established at other ferries. If any ferry-keeper shall demand or receive from any person or persons whatsoever, any greater rates than are hereby allowed for the ferriage or carriage of any thing, he shall for every such offence forfeit and pay to the party grieved the ferriage demanded or received, and ten shillings to be recovered, with costs, before a justice of the peace of the county where the offence shall be committed.

11. *And be it further enacted*, That it shall and may be lawful for the court of the county of Norfolk, annually, to let to the highest bidder, the ferries across Elizabeth river, and the branches thereof, taking bond

Court of Norfolk to let ferries across Elizabeth river

and security for payment of the money; and to apply the same, as it shall be received, towards lessening the levy of the said county.

CHAP. XXVIII.

An act to amend the act, intituled, An act appropriating certain public taxes to the opening a waggon road from the state road to the mouth of the Little Kanawha, and for other purposes.

[Passed the 22d of December, 1787.]

I. WHEREAS by an act of the last session of assembly, certain taxes then due, as well as a proportion of those which would become due in the county of Harrison, were to be appropriated towards opening a waggon road from the state road to the mouth of the Little Kanawha: And whereas by an act of the same session, the said county of Harrison was, from and after the first day of May then next following, to be divided, and the county of Randolph taken therefrom; and it is doubted whether the taxes in the county of Randolph are to be paid and appropriated in like manner as those in the said county of Harrison: For removing such doubts,

Act appropriating certain taxes to the opening a road from the state road to the mouth of the Little Kanawha amended.

II. *Be it enacted by the General Assembly*, That the taxes in the said county of Randolph shall be accounted for, recovered, paid, and appropriated in like manner, and subject to the same conditions and restrictions, as by the said recited act is directed and prescribed for the taxes in the said county of Harrison. And whereas by the said recited act, certain commissioners were appointed to superintend the opening a waggon-road from Morgan-town, in the county of Monongalia, to the mouth of Fishing-creek on the Ohio river; and George Haley, one of the said commissioners, is since

dead, and Ebenezer Zane, John Boggs, and Benjamin Davis, have refused to act:

III. *Be it therefore enacted*, That John Pierpoint, James Cleland, William M'Machan, John Caldwell, Andrew Woods, John Henderson, and George Stricker, shall be, and they are hereby appointed commissioners, in the room of the one that is dead, and those who have refused to act; and shall have the same power and authority as if they had been originally appointed and named in the said act; and shall give bond and security as therein directed. Each of the commissioners for the said counties of Harrison, Monongalia, and Ohio, shall receive five shillings per day for every day he shall be bona fide engaged in laying off the said work, to be paid upon due proof thereof being made before the courts of their respective counties, out of the taxes appropriated for opening the said road, for which the sheriffs shall be allowed in the settlement of their accounts.

CHAP. XXIX.

An act to amend the act, intituled An act to impose certain duties.

[Passed the 8th of January, 1788.]

Act imposing
duties amend
ed.

I. *BE it enacted by the General Assembly*, That from and after the passing of this act, brandy imported from France in ships or vessels belonging to any of the citizens of the United Netherlands, or to the citizens or subjects of any power in commercial treaty with the United States, shall be chargeable with no higher duties or imposts thereon on the importation of the same, into this commonwealth, than brandy imported from France in ships or vessels which are owned by the subjects of his most Christian majesty, or which are the property of the citizens of this state, or of any of the states in the American union.

II. *And be it further enacted*, That all money which hath been received by any naval officer within this

commonwealth for duties or imposts, on brandy from France imported since the twentieth day of January, one thousand seven hundred and eighty-seven, in any of the ships or vessels owned by the citizens or subjects of any nation in commercial treaty with the United States, shall be repaid to the person who hath paid such duties or imposts, or to his agent or attorney legally authorised to receive the same; and the governor shall on application to him made, and proof of the payment of such duties or imposts, direct the auditor of public accounts to issue a warrant, for payment thereof, which the treasurer shall pay out of any money in his hands arising from duties on goods imported into this commonwealth.

CHAP. XXX.

An act to regulate the inspection of flour and bread.

[Passed the 23d of November 1787.]

I. WHEREAS the laws heretofore made for the Preamble. inspection of flour, have been found defective, and it has become necessary to adopt some regulations for the prevention of frauds in the exportation of bread;

II. *Be it therefore enacted by the General Assembly,* That one inspector of flour shall be appointed at each of the following places, to wit, Alexandria, Fredericksburg, Richmond, Petersburg, West-Point, Newcastle, York, Falmouth, Port-Royal, Hobb's-Hole, Colchester, Dumfries, Manchester, Osborne's, Pokahuntas, Nomony, Broadway, Low Point in Surry, Suffolk, Hampton, South-Quay, Norfolk, Louisville, Morgan's Town, Clarksburg, Smithfield, Fort Wheeling, Lynchburg, Hanover-Town, and Portsmouth. The courts of the several counties in which the places aforesaid are situated, shall, at their first or second court after the end of this present session of the assembly, and at their courts held in the month of August or September in every year thereafter, nominate and appoint a per-

Inspections
of flour esta-
blished.

Inspectors,
how appoint-
ed.

son of good repute, and who is a skilful judge of the quality of flour, to be inspector of flour at each of the places aforesaid. In case of the death of any person so appointed, or his refusal or neglect to act, the justices of the said counties respectively, or any three of them, shall, as soon as conveniently may be thereafter, meet together and appoint some other person in the room of the one so dead or refusing or neglecting to act, who shall execute the duties of his office until the next court held for the county where such vacancy may have happened; and at such court the justices shall appoint, in manner before directed, some person to be inspector of flour for the residue of the year. If any of the said courts shall neglect to appoint such inspectors at the times directed by this act, the governor, with the advice of the council, may supply such vacancy; and the person so appointed, having taken the oath herein after mentioned before a justice of the peace, shall continue in office during the same time, and have the same power and authority, as if he had been appointed by the court of the county. All bolted wheat flour and every cask thereof brought to any of the places before mentioned for exportation, from and after the first day of March next, shall be made by the miller or manufacturer thereof, merchantable and of due fineness, and without any mixture of coarser flour, or the flour of any other grain than wheat. All bread and flour casks which shall be brought to any of the places before mentioned for exportation, after the first day of March next, shall be well made of good seasoned materials, tightened with ten hoops, sufficiently nailed with four nails in each chine hoop, and three nails in each upper bilge hoop; and the flour barrels shall be of the following dimensions, to wit, the staves shall be twenty-seven inches in length, and the head seventeen inches and an half in diameter.— Every miller of flour and baker of bread for exportation, shall provide and keep a distinguishable brand mark, with which he shall brand every cask of flour and bread, and mark thereon the tare and nett weight, before the same shall be removed from the place where it was bolted or baked, under the penalty of two shillings and sixpence for every barrel of flour not hooped and nailed as aforesaid, and for every cask of flour or bread so removed and not branded and marked as

Flour, how
manufactured.

Size of barrel

Brands.

aforesaid, to be recovered from such miller or baker who shall neglect to comply with the directions of this act, or from the person who brings such flour or bread to any of the places aforesaid for sale; and in case the penalty aforesaid shall be recovered from the person bringing the said bread or flour for sale, such person shall and may recover the same from the miller, baker, or bolter from whom such flour or bread was purchased or received; provided it appears that he gave notice to such miller, baker, or bolter, that he intended to carry the same to one of the places before mentioned for sale or exportation, and that he requested such baker, miller, or bolter to secure and brand the said barrels.

Every miller and bolter shall put into each cask the full quantity of one hundred and ninety-six pounds of flour; and if any one of them shall put a smaller quantity of flour into any cask than is directed by this act, he shall forfeit for the deficiency of every pound under three, sixpence, and for the deficiency of every pound more than three, one shilling. All casks wherein bread

Contents of
barrels.

shall be packed, shall be weighed and the tare marked thereon; and if any person shall put a false or wrong tare on any cask of bread, to the disadvantage of the purchaser, he or she shall forfeit for every cask so falsely tared, five shillings; and the inspector, or his assistants, upon suspicion or at the request of the purchasers, shall, and he is hereby required to unpack any cask of flour or bread, and if there shall be a lesser quantity of flour than is above directed, or if the cask wherein bread is packed shall be found to weigh more than is marked thereon, the miller, baker, or bolter, as the case may be, shall pay the charges of unpacking and repacking over and above the penalties aforesaid, but otherwise the said charges shall be paid by the inspector or by the purchaser, if the trial be made at his request. Every occupier of a mill who shall grind and manufacture wheat into flour and pack the same in barrels, shall make out, subscribe, and deliver to the person authorised and empowered to carry away the said flour, a manifest of the gross, tare and nett weight of such flour, and if he shall neglect or refuse so to do, he shall forfeit and pay five shillings for every barrel of flour delivered without such manifest. Every baker of bread for exportation shall deliver with the said bread a manifest of the contents thereof with his brand-

Tare.

Manifests.

Bread, for
exportation.

mark thereon, and his name subscribed thereto, under the penalty of forty shillings for every manifest delivered contrary thereto; and if any cask of bread be found lighter upon trial than is set down in the manifest, he shall forfeit for every pound deficient in the same proportion, as is heretofore directed as to flour. Every cask of flour brought to any of the places before-mentioned, to be from thence laden and shipped for exportation, shall be submitted to the view and examination of the inspectors at such place, who shall inspect and try the same by boring through the head with an instrument not exceeding half an inch in diameter to be by him provided for that purpose; and if he shall judge that the same is well packed, and merchantable according to the directions of this act, he shall plug up the whole, and brand the cask in the quarter with the name of the place at which he is inspector with a public brand-mark to be provided for that purpose, and shall also brand and mark the degree of fineness which he shall on inspection, determine the said flour to be of, which degree shall be distinguished as follows, to wit: Superfine, fine, middling, shipstuf, for which trouble the inspector shall have and receive of the owner of such flour the sum of two pence, and no more for each cask. No inspector shall pass any flour which shall prove on examination to be unmerchantable according to the true intent and meaning of this act; but shall cause the same to be marked on the bilge with the word *condemned*, or secure it for a further examination if required, which examination the owner shall procure to be made within twenty days, and the inspector shall and may demand and receive from the owner or owners thereof, the same rate and prices as if the same had been passed. When any person shall think himself aggrieved by the judgment, or want of skill in an inspector in rejecting flour as unmerchantable, it shall be lawful for such person to apply to a justice of the peace, who shall, at the charge of the complainant, issue a warrant, directed to three indifferent persons well skilled in the manufacture of flour to view and examine the same, which said three persons, having taken the same oath, or affirmation, as by this act is herein after directed to be taken by every inspector of flour, shall carefully view and examine the same, and if they or any two of them, shall pass and declare the

Degrees of
flour to be
branded on
barrels.
Inspectors'
fees.

Appeal from
inspectors.

same to be merchantable; in such case the inspector shall erase out the word *condemned*, and put such brand on the said flour as they or any two of them shall direct, and shall repay to the complainant his costs; but if on such review the judgment of the inspector shall be confirmed, in such case the owner of the flour shall pay the cost of such review; and the said inspector for his trouble shall and may receive twopence for each cask by him received in case his judgment shall be confirmed. It shall not be lawful for any person to export, or lade on board of any ship or vessel for exportation out of this state any cask of flour marked *condemned* by an inspector, or to export or lade on board of any ship or vessel for exportation from any port or place within the state any casks or barrels of flour not inspected and branded as aforesaid, on pain of forfeiting fifty shillings for every cask or barrel exported or laden on board of any ship or vessel for exportation. Review.

III. *Provided nevertheless*, That where any mill for the manufacturing of flour shall be situated on navigable water, below the falls, it shall be lawful for the owner of such mill to require the inspector of flour who resides the nearest thereto, to attend and inspect the flour manufactured by him; and the inspector, or his deputy, is hereby required to inspect and brand all such flour in the same manner, as if such flour had been carried to the place at which he is inspector, and the proprietor may thereupon export the same in like manner, as if it had been inspected at any of the before-mentioned places. Every inspector of flour, before he enters on the execution of his office, shall make oath or affirmation "that he will, without favour, affection, malice, or partiality, carefully inspect all flour brought to him and which he shall be required to examine; that no flour shall be passed or branded by him without his inspecting the same; that he will not brand or cause to be branded, as passed, any cask or casks of flour that do not appear to him to the best of his skill and judgment, to be sufficiently clean, sweet, and merchantable; that he will mark on all casks of flour the degree thereof, according to the directions of this act; that he will carefully examine the casks in which flour brought for inspection shall be contained, and that he will not pass or brand any such casks, unless Attendance
at Mills on
tide water.

Oath of inspectors.

Inspectors
not to deal in
flour

Penalty for
altering
brand, &c.

Assistant in-
spectors.

Inspectors,
how remov-
ed.

they be of such size, goodness, and thickness, as by this act, required." No inspector of flour shall directly or indirectly purchase any flour by him *condemned* nor any other flour whatsoever, other than for his own use, under the penalty of forty shillings for every barrel by him purchased. If any person shall alter the mark stamped on any cask of flour by an inspector, or shall mark or brand any cask of flour which has not been inspected with any mark or brand similar to, or in imitation of, an inspectors mark or brand, or, after an inspector shall have passed any cask of flour as merchantable, shall pack into such cask any other flour, or, after any cask of flour shall be branded *condemned*, shall unpack and repack the same in other casks for exportation, such person shall forfeit and pay the sum of forty shillings for every cask. If the quantity of flour which shall be brought to any of the beforementioned places for inspection shall at any time be so great that the inspector cannot alone examine the same with sufficient dispatch, or, if through sickness, the inspector shall be incapable of discharging the duties of his office, on such occasions it shall be lawful for him to appoint one or more persons of good repute and good judges of the quality of flour to assist him in the execution of his office. Such assistants having taken the oath or affirmation prescribed by this act to be taken by an inspector shall be authorized to inspect and brand any flour in the same manner as the inspector may do. The courts of the several counties in which the beforementioned places are situated may at any time remove from office any inspector of flour for neglect of duty, malfeasance, or corrupt practices, and may supply the vacancy occasioned thereby by appointing another inspector for the residue of the year. The penalties and forfeitures imposed by this act may be recovered by the informer before a single magistrate where the penalty does not exceed twenty-five shillings, and where it doth exceed that sum in any court of record within this state, one half to the use of the informer, and the other to the use of the commonwealth. So much of every act of assembly as comes within the purview of this act, shall be, and is hereby repealed.

CHAP. XXXI.

An act to amend the act for appointing commissioners to liquidate and settle the expences incurred in two expeditions carried on from the Kentucky district against the neighbouring Indians, and for other purposes.

[Passed November 21, 1787.]

I. WHEREAS it hath been represented to the present general assembly that the powers given to the commissioners by an act of the last session intituled, "An act for appointing commissioners to liquidate and settle the expences incurred in two expeditions carried on from the Kentucky district against the neighbouring Indians," do not authorize them to settle all claims for property and supplies necessarily impressed for the troops employed in that service, which it is just and right should be settled and allowed.

Powers of commissioners for settling expences of expeditions against the Indians, extended.

II. *Be it therefore enacted*, That John Steel, Baker Ewing, and James M'Dowell, gentlemen, be added to the former commissioners, who, or any two of them whereof a former commissioner shall be one, shall have power, and they are hereby required to settle and adjust all claims for property and supplies necessarily impressed, and in their opinion proper for the troops employed in that service, and to grant certificates for the same in manner directed by the said act.

III. *And be it further enacted*, That the said commissioners, or any two of them as aforesaid, shall have power to settle the claims and grant certificates for the pay of the militia employed in, and other necessary expences attending the defence of the frontiers of the district of Kentucky during the years one thousand seven hundred and eighty six, and one thousand seven hundred and eighty seven. The said commissioners shall in like manner grant certificates for the expences incurred in the removal of the arms and ammunition granted by the last session of assembly to the district

of Kentucky for the defence of the same from Limestone to the town of Lexington, and in removing the lead from the Blockhouse to the town of Danville; all which certificates shall be receivable in taxes, as directed by the above recited act.

IV. *And be it further enacted*, That where it shall appear to the said commissioners that any necessary expenditures of cash have been made by the county lieutenants or other persons authorized by them for the transportation of the said arms and ammunition as aforesaid, the said commissioners shall have power to liquidate and settle the same, and shall grant to such person or persons an order or orders directed to any county lieutenant in the said district having any monies in his hands arising from militia fines, which orders with proper receipts on them of their having been paid shall intitle the person paying the same upon a settlement of his accounts to a credit for the amount thereof in like manner as if the same had been paid into the public treasury.



CHAP. XXXII.

An act to amend two acts of assembly, the one intituled An act for keeping certain roads in repair, the other intituled An act for opening and straightening certain public roads.

[Passed December 2, 1787.]

Acts for keeping certain roads in repair, and for opening and straightening certain public roads altered and amended.

I. WHEREAS the two acts of assembly, one intituled, "An act keeping certain roads in repair," and the other "An act for opening and straightening certain public roads;" have in many instances proved oppressive in their operation, in exacting tolls from great numbers of people who derive no benefit from the turnpikes; in directing the sum of sixty pounds to be levied annually for three years upon the counties of Fairfax, Loudoun, Berkeley, and Frederick, respectively, for

the purpose of repairing certain roads not used by numbers of the inhabitants of the same; in compelling hands to work upon the said roads whose place of abode is at an unreasonable distance from them, and in the extensive and uncontroled powers vested in the commissioners appointed by the said acts:

II. For remedy whereof, *Be it enacted by the General Assembly*, That all coaches, chariots, stage-wagons, chaises, chairs, and other riding carriages, passing up or down the country to, from, or through the town of Alexandria, and travelling along the back road to the ford of Great Hunting creek near Cameron, or along any of the roads between the said back road and Potowmack river, shall pass and repass toll free; unless any such riding carriage shall also travel along the road leading from George-town to Alexandria, in which case, such riding carriage shall be subject to the legal toll at the turnpike established on the said George-town road. And that the riding carriages and other wheel carriages of all and every the inhabitants of the county of Fairfax whose plantation or plantations are so situated that in passing to and from the town of Alexandria, they have no occasion to travel more than one quarter of a mile along the roads leading from the gaps in the blue ridge of mountains to the turnpike established near the said road, nor along the road leading from George-town to the other turnpike established on the George-town road, shall pass and repass to and from the said town of Alexandria toll-free, upon a certificate thereof being obtained from any two justices of the peace for the said county, describing the plantation or plantations, with the name of the owner or owners entitled to such exemption; which certificates, the justices of the said county of Fairfax are hereby empowered and required to grant to any person or persons applying for the same, either from their own knowledge, or upon satisfactory proof made to them that the person or persons so applying are legally entitled thereto; and upon the death or removal of the party to whom any such certificate of exemption shall have been granted, a new certificate shall in like manner be granted to the person or persons respectively succeeding to the possession or occupation of the same plantation or plantations. And for the better information of the keepers of the turnpikes, the person or per-

sons respectively obtaining such certificates of exemption, shall lodge them in the hands of the commissioners of the turnpike roads in the said county of Fairfax, or some one of them, who shall cause a proper and distinct list of all such certificates to be entered in books for that purpose, to be kept at each of the turnpikes, and shall return them to the persons to whom they were respectively granted. And to prevent any impositions by the persons applying for such certificates of exemption, as well as deceptions at the turnpikes,

III. *Be it further enacted*, That the court of the said county of Fairfax shall be, and they are hereby empowered and required, upon complaint made by the commissioners of the turnpike roads for the said county, and ten days previous notice to the person or persons whose certificate or certificates are complained of, to hear and determine such complaint in a summary way, and to set aside and order to be erased from the turnpike books, any certificate or certificates of exemption, which, upon such complaint, shall appear to have been obtained contrary to the true intent and meaning of this act; but on such complaint, or in any other matter respecting the turnpike roads, no commissioner of the said roads shall sit, or give his opinion as a justice of the county. And if any person or persons shall pass through the said turnpikes or either of them with any wheel carriage not exempted by virtue of this act, or if any of the inhabitants of the county of Fairfax whose wheel carriages are or shall be exempted by virtue of this act, shall pass through the said turnpikes or either of them with wheel carriages laden with, or carrying the produce or commodities of those who are not so exempted, or shall travel with any wheel carriage so exempted more than one quarter of a mile in coming from the country to the said town of Alexandria, without paying toll, the person or persons in either case so offending, shall forfeit and pay for every such offence the sum of ten shillings, to be recovered with costs, by warrant before any justice of the peace in the said county of Fairfax.

IV. *And be it further enacted*, That the road leading from Ashley's gap into the road from Snicker's gap, and intersecting the same near the ford of Little River, in the county of Loudoun, shall henceforward be kept in repair, in the same manner, and be subject

to the same rules and regulations in every respect, under the authority of the same commissioners as the other turn-pike roads herein before mentioned.

VII. *And be it also enacted*, That the third years levy of sixty pounds directed to be assessed on the counties of Fairfax, Loudon, Berkeley and Frederick, respectively, by the act intituled "An act for keeping certain roads in repair," shall be and the same is hereby remitted, and shall not be levied or assessed upon the property or people of the said counties, or either of them; and no hands shall be compelled to work on any of the said turnpike-roads, whose residence or place of abode is more than three miles from the road to which they have been or shall be allotted to work.

VIII. *And be it further enacted*, That the courts of Fairfax, Loudon, and Fauquier counties, at their respective courts on or before the month of June next, may, and they are hereby required to, appoint each of them, one other commissioner to be added to those who are named in the said recited act for keeping certain roads in repair, which additional commissioner so appointed shall thenceforward have the same powers, and be subject to the same rules and regulations with the other commissioners of the said turnpike-roads.—And for continuing the succession of the said commissioners, upon the death, resignation, or removal of any of them, or of any of those who shall hereafter be appointed, it shall and may be lawful for any or either of the county courts of Fairfax, Loudon, Fauquier, Berkeley, or Frederick respectively, in which such death, resignation, or removal shall happen, and they are hereby respectively required, from time to time, to appoint some other person or persons instead of the commissioner or commissioners so dying, resigning, or removing. The said commissioners heretofore appointed as well as those hereafter to be appointed shall each and every of them take an oath before the court of the county in which they respectively reside "well and truly to discharge the office of a commissioner of the roads according to the best of his judgment, without favour or partiality to any person or persons whatever."

IX. *And be it further enacted*, That the commissioners of the said turnpike-roads shall, in the month of June or July annually, settle with Fairfax county

court a just and true account upon oath of all their receipts and disbursements according to the directions of the said recited act for keeping certain roads in repair, under the penalty of the sum of two hundred pounds each, to be recovered by action of debt or information in any court of record within the commonwealth, one half to the use of the informer, and the other half to the use of the college or academy in the town of Alexandria. All the other penalties and forfeitures inflicted by this act, shall be, one half to the use of the informer and the other half to the use of the commissioners of the said turnpike-roads, to be by them applied towards repairing the said roads.

X. *And be it further enacted*, That if at any time it shall be necessary for public convenience to turn or alter any part of the before mentioned turnpike-roads, or either of them, the said road-commissioners or any five of them shall meet on that part of any such road so proposed to be turned or altered, giving the persons whose interest may be materially affected thereby, if living within the county, or in any adjoining county, or his or their known attorney or agent within the county, ten days notice of the time, place, and purpose of such meeting, and if a majority of the commissioners so meeting, upon viewing the road, and having regard as well to the inconvenience to individuals, as the convenience to the public, shall be of opinion that such alteration is materially necessary and proper, and the person or persons whose interests may be affected thereby, or their known attorneys or agents being present and not objecting thereto, such alteration shall be made and established; but if the person or persons whose interest may be affected or their known attorneys or agents are not present, or being present object thereto; in either case the said commissioners shall make report upon oath of the conveniencies and inconveniencies to the best of their judgment attending the same with their opinion thereupon to the next court to be held for the county wherein such alteration or alterations are proposed to be made, and thereupon such court shall take such proceedings therein as are prescribed by the "Act concerning public roads."

XI. And whereas the commissioners appointed by the "Act for opening and straightening certain public roads," have not yet compleated the road from Ches-

ter's gap in the county of Culpeper, to the city of Richmond, within the time prescribed by the said act, and it is therefore doubtful whether they can now proceed therein, *Be it further enacted*, That the said commissioners may, and they are hereby empowered to finish and compleat the laying off, opening, clearing and establishing the said road from Chester's gap to the city of Richmond, in the same manner, and under the same directions, restrictions, and regulations, as are herein before prescribed in the case of altering the before mentioned turnpike-roads from the gaps in the Blue Ridge of mountains to the town of Alexandria. So much of the said two acts of assembly, the one intituled "An act for keeping certain roads in repair," and the other intituled "An act for opening and straightening certain public roads," as is contrary to, or comes within the purview of this act, shall be, and is hereby repealed.

CHAP. XXXIII.

An act to repeal part of an act for the protection and encouragement of the commerce of nations, acknowledging the Independence of the United States of America.

[Passed December 31, 1787]

I. WHEREAS the act intituled "An act for the protection and encouragement of the Commerce of Nations, acknowledging the Independence of the United States," is found in its operation to be partial in as much as it authorizes subjects or citizens of foreign nations to institute suits against the citizens of this commonwealth, and to prosecute them to a decision in a more speedy and summary way, than they have hitherto known or been accustomed to; and it is but just and proper that no such exclusive privilege should longer be continued; *Be it therefore enacted*, That from

So much of act for protection and encouragement of commerce of nations acknowledging the independence of the U. States, as gives their subjects a more summary remedy, in our courts, repealed.

and after the passing of this act, so much of the said recited act as points out and authorizes the mode of proceeding in suits wherein foreigners are parties shall be, and the same is hereby repealed.

CHAP. XXXIV.

An act to repeal so much of all and every act or acts of assembly as prohibits the recovery of British debts.

[Passed December 12, 1787]

Acts prevent-
ing recovery
of British
debts, repeal-
ed.

I WHEREAS it is stipulated by the fourth article of the treaty of peace between the king of Great Britain and the United States of America in congress assembled, that creditors on either side shall meet with no lawful impediment in the recovery of the full value in sterling money of all bona-fide debts heretofore contracted; *Be it therefore enacted by the General Assembly,* That such of the acts or parts of acts of the legislature of this commonwealth, as have prevented or may prevent the recovery of debts due to British subjects, according to the true intent and meaning of the said treaty of peace shall be and are hereby repealed.

Suspension
of this act.

II. *Provided,* That this act shall be suspended until the governor with the advice of council shall by his proclamation, notify to this state, that Great Britain hath delivered up to the United States the posts therein now occupied by British troops, which posts were stipulated by treaty to be given up to congress immediately after the conclusion of peace; and is also taking measures for the further fulfilment of the said treaty by delivering up the negroes belonging to the citizens of this state taken away contrary to the seventh article of the treaty, or by making such compensation for them as shall be satisfactory to congress.

CHAP. XXXVI.

An act concerning monies paid into the public loan office, in payment of British debts.

[Passed January 3, 1788.]

I. WHEREAS by an act of the general assembly entitled "An act for sequestering British property, enabling those indebted to British subjects to pay off such debts, and directing the proceedings in suits where such subjects are parties," it is among other things provided, that it shall and may be lawful for any citizen of this commonwealth owing money to a subject of Great-Britain, to pay the same or any part thereof from time to time as he shall think fit, into the said loan office, taking thereout a certificate for the same, in the name of the creditor, with an indorsement under the hand of the commissioner of the said office, expressing the name of the payer, and shall deliver such certificate to the governor and council, whose receipt shall discharge him from so much of the debt, and the governor and council shall in like manner lay before the general assembly, once in every year, an account of these certificates, specifying the names of the persons by and for whom they were paid, and shall see to the safe keeping of the same, subject to the future direction of the legislature.

Monies paid into the loan office, on account of British debts, how far reimbursed.

II. And whereas it belongs not to the legislature to decide particular questions, of which the judiciary have cognizance, and it is therefore unfit for them to determine whether the payments so made into the loan office as aforesaid, be good or void between the creditor and debtor, but it is expedient to declare to what amount this commonwealth may be bound for the payments aforesaid, *Be it enacted and declared*, that this commonwealth shall, at no time nor on any event or contingency be liable to any person or persons whatsoever for any sum on account of the payments aforesaid, other than the value thereof when reduced by the scale of depreciation, established by one other act of the general assembly, intituled "An act directing the

mode of adjusting and settling the payment of certain debts and contracts, and for other purposes," with interest thereon at the rate of six per centum per annum; any law, usage, custom, or any adjudication or construction of the first recited act already made or hereafter to be made notwithstanding.

III. *Provided always*, That nothing herein contained shall be construed to affect or prejudice any process, plea or right, to which a citizen debtor would have been entitled against his creditor before the passing of this act, but that all courts of law and equity shall decide on such process, plea and right, in the same manner as if this act had never been made.

IV. *Provided always, and be it further enacted*, That no question between debtor and creditor respecting any sum of money so paid into the public loan office, shall be brought before any court of this commonwealth, during the suspension of the act entitled "An act to repeal so much of all and every act or acts of assembly as prohibits the recovery of British debts."

CHAP. XXXV.

An act to authorize the establishment of fire companies.

[Passed January 7, 1788.]

Establish-
ment of fire
companies
authorised.

I. WHEREAS the danger to which the several towns within this commonwealth are exposed from fire is chiefly occasioned by the want of fire companies duly organized, and it is necessary that such companies be incorporated, in order to give them their full effect, *Be it enacted* That it shall be lawful for any number of persons resident within any town, borough, or corporation within this commonwealth exceeding forty persons to form themselves into a company or companies for the purpose of extinguishing fire, who on having their names and subscriptions recorded in the court of the county or corporation where they reside, are hereby authorized to make such rules and re-

gulations as to a majority of the said company or companies may seem proper and necessary for the procuring of engines and other necessary implements working the said engines, and exercising the companies raised. And that all fines and forfeitures for non-attendance or delinquency imposed by the said regulations not exceeding twenty-five shillings, shall be recoverable before a single magistrate on proof of such delinquency, which said fines and forfeitures shall be applied to the purposes of their institutions.

II. *Provided always*, That all bye-laws or rules to be made by virtue of this act, which are contrary to the constitution or laws of the commonwealth, shall be null and void.

CHAP. XXXVII.

An act for the punishment of persons guilty of stealing or selling free persons as slaves.

[Passed January 8, 1788.]

L WHEREAS several evil disposed persons have seduced or stolen the children of black and mulatto free persons, and have actually disposed of the persons so seduced or stolen as slaves, and punishment adequate to such crimes, not being by law provided for such offenders,

Stealing or selling a free person for a slave, felony, without clergy.

II. *Be it enacted*, That any person who shall hereafter be guilty of stealing or selling any free person for a slave knowing the said person so sold to be free, and thereof shall be lawfully convicted, the person so convicted shall suffer death without benefit of clergy.

CHAP. XXXVIII.

An act directing patents to issue upon certain surveys made by Richard Rigg, deceased.

[Passed January 2, 1788.]

Patents to issue upon surveys of land, made in Northern Neck, by Richard Riggs.

I. WHEREAS it is represented that Richard Rigg in his life time, as one of the surveyors of the right honourable Thomas Lord Fairfax, in that part of this commonwealth called and known by the name of the Northern Neck, made a considerable number of surveys and entered them in a book for that purpose, and that before any plats and certificates thereof were made and returned to the land office, the said Richard Rigg departed this life:

II. And whereas John M'Coole hath since the death of the said Richard Rigg, made out plats of such surveys from the said books and returned them to the land office with the respective fees upon oath, but no grants thereof can legally be issued; for remedy whereof. *Be it enacted by the General Assembly*, That the register of the land office shall, and he is hereby empowered and required to issue grants conformable to the plats of survey so returned into the land office in like manner as if the plats and certificates thereof had been returned to the office in due form by the said Richard Rigg.

CHAP. XXXIX.

An act establishing District Courts.

[Passed January 2, 1788]

District courts established.

☞ This act never went into operation; and was

I. WHEREAS the delays inseparable from the present constitution of the general court, may be often equal to a denial of justice, the expence of the criminal prosecutions are unnecessarily burthensome to the citizens of this commonwealth, violations of the law frequently pass with impunity, from the distance at

which witnesses reside from the fixed station of the said court, and the authority of those laws would be more defusively promulgated by the establishment of district courts. repealed, by the last section of the act of 1788 ch.67

II. *Be it therefore enacted by the General Assembly,* That the counties of Henrico, Hanover, Chesterfield, Goochland, and Powhatan, shall compose one district, and that a court shall be held for the same at the city of Richmond, on the first day of April, and the first day of September in every year. That the counties of James City, Charles City, New Kent, Surry, Gloucester, York, Warwick, and Elizabeth City, shall compose another district, and a court shall be held for the same at the city of Williamsburg, in the courthouse of James City county, on the twenty third day of April, and the twenty third day of September in every year. That the counties of Richmond, Westmoreland, Lancaster, and Northumberland, shall compose another district, and a court shall be held for the same at Northumberland courthouse, on the first day of April, and the first day of September in every year. That the counties of Essex, Middlesex, King and Queen, and King William, shall compose another district, and a court shall be held for the same at King and Queen courthouse, on the twelfth day of April, and the twelfth day of September, in every year. That the counties of Spotsylvania, Caroline, King George, Stafford, Orange, and Culpeper, shall compose another district, and a court shall be held for the same at Fredericksburg, on the first day of April, and the first day of September, in every year. That the counties of Frederick, Berkeley, Hampshire, Hardy, and Shenandoah, shall compose another district, and a court shall be held for the same at Winchester, on the twenty sixth day of April, and the twenty sixth day of September, in every year. That the counties of Augusta, Rockbridge, Rockingham, and Pendleton, shall compose another district, and a court shall be held for the same at Staunton, on the first day of April, and the first day of September, in every year. That the counties of Albemarle, Louisa, Fluvanna, and Amherst, shall compose another district, and a court shall be held for the same at Charlottesville, on the eighth day of May, and the eighth day of October, in every year. That the counties of Fairfax, Fauquier, Loudon, and Prince

William, shall compose another district, and a court shall be held for the same at Dumfries, on the thirteenth day of April, and the thirteenth day of September, in every year. That the counties of Harrison, Monongalia, Ohio, and Randolph, shall compose another district, and a court shall be held for the same at Monongalia courthouse, on the seventeenth day of April, and the seventeenth day of September, in every year. That the counties of Montgomery, Washington, and Russel, shall compose another district, and a court shall be held for the same at Washington, and Montgomery courthouses, alternately, on the twenty sixth day of April, and the twenty sixth day of September, in every year. That the counties of Norfolk, Isle of Wight, Princess Anne, Nausemond, and Southampton, shall compose another district, and a court shall be held for the same at Suffolk, on the sixth day of May, and the sixth day of October, in every year.— That the counties of Prince George, Sussex, Dinwiddie, and Amelia, shall compose another district, and a court shall be held for the same at Petersburg, on the thirteenth day of April, and the thirteenth day of September, in every year.

11. And whereas there is not any courthouse in the town of Petersburg wherein the said court can hold their sessions, and it is necessary some place should be fixed on for holding the said courts, as also for ascertaining the place whereon the courthouse and prison shall be built, *Be it further enacted*, That until the public buildings shall be erected, the said court shall hold their sessions in the house of Robert Armistead, in the said town and that the courthouse and prison be built on the lands of Erasmus Gill in the said town, who is willing to erect the same at his own expence, and that after the same shall be completed, the courts shall be held therein; but in case the said Erasmus Gill, shall refuse to make the necessary publick buildings, the court of the county of Dinwiddie are hereby empowered to fix on the lands of any other person within the said town, whereon the said buildings shall be erected, who may be willing to make the same at their own expence. That the counties of Brunswick, Greensville, Lunenburg, and Mecklenburg, shall compose another district, and a court shall be held for the same at Brunswick courthouse, on the twenty-fifth day

of April, and the twenty-fifth day of September, in every year. That the counties of Prince Edward, Buckingham, Charlotte, Halifax, and Cumberland, shall compose another district, and a court shall be held for the same at Prince Edward courthouse, on the first day of April, and the first day of September, in every year. That the counties of Bedford, Campbell, Franklin, Pittsylvania, and Henry, shall compose another district, and a court shall be held for the same at New-London, on the twelfth day of April, and on the twelfth day of September, in every year. That the counties of Accomack and Northampton, shall compose another district, and a court shall be held for the same at Accomack courthouse, on the eighth day of May, and the eighth day of October, in every year. That the counties of Greenbrier and Botetourt, shall compose another district, and a court shall be held for the same at Louisbourg in Greenbrier, and Botetourt courthouse, alternately, on the eighth day of May, and the eighth day of October, in every year, until the proprietor of the Sweet Springs, shall erect a sufficient courthouse and prison, for the purposes of this act, after which time the Sweet Springs shall become the seat of the district court. Each court shall sit, if business require, for eight days successively, Sundays excepted, and no longer, and shall be a court of record. And if any of the said several days shall happen to be Sunday, then the said district courts shall respectively as the case may happen, begin on the succeeding day. The court of appeals at their session to be held in April next, or a majority of them shall appoint a clerk, to each of the said district courts, who shall be removable on conviction on an indictment for a misdemeanor, shall reside and keep his office at the place of holding the court, and shall give bond with security payable to the governor for the time being, for the faithful performance of his duty, in the penalty of three thousand pounds, to be put in suit at the instance of any party, or parties aggrieved, for his, her, or their use. He shall issue all writs, summonses, and other lawful process, which shall bear teste, in his own name, and be returnable to the next court to be holden for his district, and shall act as clerk of the said court.

III. *And be it further enacted,* That four judges shall be elected by joint ballot of both houses of as;

sembly, in addition to the present judges of the general court, who shall also be judges of the court of appeals, and it shall be the duty of the judges of the high court of appeals, to attend the said courts, allotting among themselves the districts they shall respectively attend, in such manner that the judges of the high court of chancery and admiralty shall attend the district courts, to be held at Richmond, Petersburg, Brunswick, Suffolk, Northumberland, King and Queen, Williamsburg, and Accomack, and the judges of the general court shall attend the district courts, to be held at Fredericksburg, Dumfries, Winchester, Charlottesville, Staunton, Monongalia, Prince Edward, New-London, at Washington, and Montgomery alternately, and at the Sweet Springs: Three judges to be allotted to each district, any two of whom shall constitute a court.

IV. *And be it further enacted.* That a tax of six shillings, shall be, and the same is hereby imposed on all judgments to be obtained in the district courts, which shall be paid by the plaintiff to the clerk of the court where such judgment shall be obtained before he shall enter up the same; which sum of six shillings, shall be taxed in the bill of costs, and in all other respects the tax on process in the district courts shall be the same, and shall be taxed in the bill of costs in like manner as now by law directed concerning process in the general court. The clerks of the district courts shall account upon oath for the receipt of the above-mentioned tax of six shillings, upon all judgments to be obtained in their courts respectively, in the same manner as they are directed by law to collect and account for taxes heretofore imposed and divide the same among the judges attending such court, taking a receipt from each judge for the amount so paid, to be deducted out of his salary, which receipt when produced to the auditor of public accounts shall be a credit for the amount thereof to the clerk producing the same.— Each of the judges, besides the oaths now particularly required, shall take another as judge of the district courts, according to the direction of the act intituled “An act for establishing a general court,” and the taking the last mentioned oath, shall enable any person appointed a judge of either of the superior courts, to act as such in the district courts, and as conservators of the peace throughout this commonwealth. Any

judge who shall sit as a judge of the district court, without having taken the last mentioned oath, shall forfeit the sum of five hundred pounds, to be recovered in any court of record, by action of debt or information; one half for the use of the commonwealth, and the other half for the use of the informer. If two judges should not attend on the first day of any district court, it shall be lawful for one judge to adjourn such court from day to day, until a court shall be made, if that happen before four of the o'clock in the afternoon of the sixth day. If a district court shall not sit in any term, or shall not continue to sit the whole term, or before the end of a term shall not have heard and determined all matters ready for their decision, such matters and all others depending in court, shall stand continued to the next succeeding term.

VI. The jurisdiction of the said courts respectively, shall be over all persons and in all causes, matters, or things at common law now cognizable in the general court, and which shall amount to thirty pounds, whether brought before them by original process, by *habeas corpus*, appeal, writ of error, supersedeas, *mandamus*, *certiorari*, to remove proceedings on a forcible entry or detainer, or for any other purpose, or by any other legal ways or means whatsoever; and also all suits now depending in the general court under that suor. They shall also have the same jurisdiction over controversies concerning mills, wills, roads, and letters of administration, public debtors, whether sheriffs or others, and the recording of deeds for lands, and other property within the district, as the general court now hath by law, and the said courts shall hear and determine the same. *Provided also*, That writs of *habeas corpus*, appeal, error, supersedeas, *mandamus*, and *certiorari*, and controversies concerning mills, wills, roads, and letters of administration, shall not be heard or determined by any district court, unless such writ of error, supersedeas, *mandamus*, and *certiorari* relate to some record or proceeding within the said district, or the person praying the *habeas corpus*, or the mills or roads be within the same, or the wills or letters of administration be cognizable by the court of some county within the said district.

VII. The judges of the court of appeals shall direct the forms of writs from time to time, in such manner

as shall seem advisable; but until an alteration by them made therein, the forms shall be as nearly alike to those now used in the general court as the nature of district courts will admit. If any writ or process shall be executed so late, that the sheriff or other officer hath not reasonable time to return the same before the day of appearance thereto, and an *alias*, *pluries*, attachment or other process be awarded thereupon, the sheriff shall not execute such subsequent process, but shall return the first process by him executed, on which there shall be the same proceedings as if it had been returned in due time.

VIII. In all actions or suits which may be commenced against the governor of this commonwealth, any member of the privy council, any of the judges of the superior courts, or the sheriff of any county, during his continuance in office, instead of the ordinary process a summons shall issue to the sheriff or other proper officer, reciting the cause of action, and summoning such defendant to appear and answer the same on the proper return-day in the next district court; and if such defendant, being summoned, or after a copy shall have been left at his house ten days before the return day, shall not appear to answer the same, an attachment shall be awarded against his estate, and thereafter the proceedings in the suit shall be in like manner as is directed in case of an attachment awarded upon the sheriff's returning *non est inventus* on ordinary process. *Provided always*, That after judgment and the return of a *fieri facias* by the sheriff of that county in which the defendant in any such case resides, that no effects, or not sufficient are to be found in his bailiwick to satisfy the said judgment, a *capias ad satisfaciendum* may issue as in other cases. *Provided also*, That no writ of *capias ad respondendum* shall be issued against any person in any other district than that in which he resides, until a *non est inventus* has been returned in such district, upon a *capias* issued against such defendant in the same suit; and every writ issued contrary thereto, shall be *ipso facto* void, and dismissed on the first calling thereof. *Provided nevertheless*, That where two or more persons are or shall be jointly and not severally bound for the performance of any contract, or for the payment of any money or tobacco, by bond covenant, or otherwise, that it shall and may be

lawful to prosecute such persons jointly or severally, in whatever district they or either of them may reside: And provided also, that any person not a resident within this state, nor paying county or parish levies within the same, may be prosecuted in like manner as if this act had never been made.

IX. In all actions to recover the penalty for breach of any penal law, not particularly directing special bail to be given in actions of slander, trespass, assault and battery, actions on the case for trover or other wrongs, and all other personal actions, except such as shall be herein after particularly mentioned, the plaintiff or his attorney shall, on pain of having his suit dismissed, with costs, endorse on the original writ or subsequent process, the true species of action, that the sheriff to whom the same is directed may be thereby informed whether bail is to be demanded on the execution thereof; and in the cases before mentioned, the sheriff may take the engagement of an attorney practising in the district court, endorsed upon the writ, that he will appear for the defendant or defendants, and such appearance shall be entered with the clerk in the office on the first day after the end of the court, to which such process is returnable, which is hereby declared to be the appearance-day in all process returnable to any day of the court next preceding. Every attorney failing to enter an appearance according to such engagement, shall forfeit, to the plaintiff fifty shillings, for which judgment shall be immediately entered, and execution may issue thereupon. *Provided always*, That any judge of the said court, in actions of trespass, assault and battery, trover and conversion, and in actions on the case, where, upon proper affidavit or affirmation, as the case may be, it shall appear to him proper that the defendant or defendants should give appearance-bail, may, and he is hereby authorised to direct such bail to be taken by endorsement on the original writ or subsequent process; and every sheriff shall govern himself accordingly.

X. In all actions of debt, founded on any writing obligatory, bill or note in writing, for the payment of money or tobacco, all actions of covenant or detinue; in which cases the true species of action shall be endorsed on the writ as before directed, and that appearance-bail is to be required, the sheriff shall return on

the writ the name of the bail by him taken, and a copy of the bail-bond to the clerk's office before the day of appearance; and if the defendant shall fail to appear accordingly, or shall not give special bail, being ruled thereto by the court, the bail for appearance may defend the suit, and shall be subject to the same judgment and recovery as the defendant might or would be subject to, if he had appeared and given special bail; and in actions of detinue the bail-piece shall be so changed as to subject the bail to the restitution of the thing, whether animate or inanimate, sued for, or the alternative value, as the court may adjudge. And if the sheriff shall not return bail, and the copy of the bail-bond, or the bail returned shall be judged insufficient by the court, and the defendant shall fail to appear and give special bail, if ruled thereto, in such case the sheriff may have like liberty of defence, and shall be subject to the same recovery as is provided in the case of appearance-bail. And if the sheriff depart this life before judgment be confirmed against him, in such case the judgment may be confirmed against his executors or administrators; or if there shall not be a certificate of probate or administration granted, then it may be confirmed against his estate, and a writ of fieri facias may in either case be issued; but the plaintiff shall object to the sufficiency of the bail during the sitting of the court next succeeding that to which the writ is returnable, or in the office on the first or second rule-day, and at no time thereafter. And all questions concerning the sufficiency of bail so objected to in the office, shall be determined by the court on the first day of the next succeeding court; and in all cases where the bail shall be judged insufficient, and judgment entered against the sheriff, he shall have the same remedy against the estate of the bail as against the estate of the defendant: Also, that every judgment entered in the office against a defendant and bail, or against a defendant and sheriff, shall be set aside, if the defendant, upon the third day of the succeeding court, shall be allowed to appear without bail, put in good bail, being ruled so to do, or surrender himself, in custody, and shall plead to issue immediately; on which third day the court shall regulate all other proceedings in the office during the preceding vacation, and rectify any mistakes or errors which may have happened therein. In every

case where judgment shall be confirmed against any defendant or defendants and bail, or the sheriff, his executors, administrators, or estate, as aforesaid. the court, upon motion of such bail, or of such sheriff, his executors or administrators, or any other person on behalf of his estate, may order an attachment against the estate of such defendant or defendants, returnable to the next succeeding court; and upon the execution and return of such attachment, the court shall order the estate seized, or so much thereof as will be sufficient to satisfy the judgment and costs. and all costs accruing under the attachment, to be sold as goods taken in execution upon a fieri facias; and out of the money such judgment and all costs shall be satisfied, and the surplus, if any, restored to the defendant or defendants when required.

XI. Any judge of the said court, when the court is not sitting, or any justice of the peace, may take recognizance of special bail in any action therein depending, which shall be taken, and shall be transmitted by the person taking the same before the next succeeding court, to the clerk of the said court, to be filed with the papers in such action; and if the plaintiff or his attorney shall except to the sufficiency of bail so taken, notice of such exception shall be given to the defendant or his attorney, at least ten days previous to the day on which such exception shall be taken: And if such bail shall be judged insufficient by the court, the recognizance thereof shall be discharged, and such proceedings shall be had as if no such bail had been taken.

XII. Every special bail may surrender the principal before the court where the suit hath been or shall be depending at any time either before or after judgment shall be given, and thereupon the bail shall be discharged, and the defendant or defendants shall be committed to the custody of the sheriff or jailor attending such court, if the plaintiff or his attorney shall desire the same; or such special bail may discharge himself or herself, by surrendering the principal or principals to the sheriff of the county where the original writ was served, and such sheriff shall receive such defendant or defendants, and commit him, her, or them, to the jail of his county, and shall give a receipt for the body or bodies of such defendant or defendants, which shall

be by the bail forthwith transmitted to the clerk of the county where the suit is or was depending. When such render after judgment shall be to the sheriff, he shall keep such defendant or defendants in his custody in the same manner, and subject to the like rules, as are provided for debtors committed in execution during the space of twenty days, unless the creditor, his attorney or agent, shall sooner consent to his, her, or their discharge. The bail shall give immediate notice of such render to the creditor, his attorney or agent; and if within the said twenty days such creditor, his attorney or agent, shall not in writing charge the debtor or debtors in execution, he, she, or they shall be forthwith discharged out of custody; but the plaintiff or plaintiffs may nevertheless afterwards sue out any legal execution against such debtor or debtors.

XIII. When the sheriff or other proper officer shall return on any original or mesne process, that he hath taken the body of any defendant and committed him to prison for want of appearance bail, the plaintiff may proceed, and the defendant make his defence in like manner as if his appearance bail had been entered and accepted; but such defendant shall not be discharged out of custody until he shall put in good bail, or the plaintiff shall be ruled by the court to accept an appearance without bail; and where any defendant, after appearance entered, shall be confined in prison, the plaintiff may file his declaration, give a rule to plead, and deliver copies of such declaration and rule to the defendant, or his attorney; and if the defendant shall fail to enter his plea within two months after receiving such declaration and notice, the plaintiff may have his judgment by default, as in other cases.

XIV. Rules shall be monthly holden in the clerk's office of each district, beginning the day after the rising of each court.

XV. Where the sheriff or other proper officer shall return on any writ of *capias* to answer in any civil action, that the defendant is not found within his bailiwick, the plaintiff may either sue out an *alias* or a *pluries capias*, until the defendant shall be arrested, or a *testatum capias*, where he shall be removed into another county, or may, at his election, sue out an attachment against the estate of the defendant, to force an appearance; and if the sheriff or other officer shall return that

he hath attached any goods, and the defendant shall not appear and replevy the same, by entering his appearance and giving special bail, in case he shall be ruled so to do, the plaintiff shall file his declaration, and be entitled to a judgment for his debt, or damages and costs, which judgment shall be final in all actions of debt founded on any specialty, bill or note in writing, ascertaining the demand; and in other cases, the damages shall be settled by a jury sworn to enquire thereof. The goods attached shall remain in the hands of the officer till such final judgment be entered, and then be sold in the same manner as goods taken upon a *fiery facias*; and if the judgment shall not be thereby satisfied, the plaintiff may sue out execution for the residue; and in case more goods be attached than will satisfy the judgment, the surplus shall be returned to the defendant.

XVI. On the return of the *pluries*, that the defendant is not to be found, the court, instead of the process to outlawry formerly used, may order a proclamation to be issued, warning the defendant to appear at a certain day therein named, or that judgment will be rendered against him; which proclamation shall be published on three successive court-days at the door of the court-house of the county to which the last process was directed, and also three times in the Virginia Gazette; and if the defendant fails to appear pursuant to such proclamation, the same proceedings shall be had, and the same judgment given as in other cases of default.

XVII. The plaintiff shall file his declaration in the clerk's office at the next such succeeding rule-day after the defendant shall have entered his appearance, or the defendant may then enter a rule for the plaintiff to declare, which if he shall fail or neglect to do at the succeeding rule-day, or shall at any time fail to prosecute his suit, he shall be nonsuited, and pay to the defendant or tenant, besides his costs, one hundred and fifty pounds of tobacco, where his place of abode is at the distance of twenty miles or under from the place of holding the district court, and where it is more, five pounds of tobacco for every mile above twenty.

XVIII. One month after the plaintiff hath filed his declaration, he may give a rule to plead with the clerk, and if the defendant shall not plead accordingly at the

expiration of such rule, the plaintiff may enter judgment by default for his debt or damages and costs.

XIX. All rules to declare, plead, reply, rejoin, or for other proceedings, shall be given regularly from month to month, shall be entered in a book to be kept for that purpose, and shall be out on the succeeding rule-day.

XX. All judgments by default for want of an appearance, or special bail, or pleas as aforesaid, and non-suits or dismissions obtained in the office, and not set aside at the third day of the succeeding district court, shall be entered by the clerk as of that day, which judgment shall be final in actions of debt founded on any specialty, bill, or note in writing ascertaining the demand; and in all other cases the damages shall be ascertained by a jury, to be impanelled and sworn to enquire thereof, as is herein after directed.

XXI. No plea in abatement, or of *non est factum*, shall be admitted or received if the defendant be not an executor or administrator, unless the party offering the same shall prove the truth thereof by affidavit or affirmation, as the case may be; and where a plea in abatement shall upon argument be judged insufficient, the plaintiff shall recover full costs to the time of overruling such plea, a lawyer's fee only excepted.

XXII. The plaintiff in replevin, and the defendant in all other actions, may plead as many several matters, whether of law or fact, as he shall think necessary for his defence.

XXIII. Before every district court the clerk shall enter in a particular docket all such causes (and those only) in which an issue is to be tried, or enquiry of damages to be made, or a special verdict, case agreed, demurrer, or other matter of law is to be argued, in the same order as they stand in the course of proceeding, setting as near as may be an equal number of causes to each day.

XXIV. In all cases where witnesses are required to attend the district court, a summons shall be issued by the clerk, expressing the day and place where they are to appear, the names of the parties to the suit, and in whose behalf summoned.

XXV. When any witness shall be about to depart the country, or shall be out of the commonwealth, or by age; sickness, or otherwise, shall be unable to at-

tend, the court, upon affidavit thereof, or on a certificate from any justice of the peace, the court, when they are sitting, or the clerk in vacation, may, on request of either party, award a commission for taking the deposition of such witness, *de bene esse*, to be read as evidence at the trial, in case the witness shall be unable to attend; but the party obtaining such commission shall give reasonable notice to the other party of the time and place of taking the deposition, otherwise the same shall be void.

XXVI. If any party in a suit at common law shall make oath, that he verily believes his claim or defence, as the case may be, or a material point thereof, depends on a single witness, the court, when sitting, or the clerk in vacation, may award a commission to take the deposition of such witness, *de bene esse*, although he or she be not about to depart the country, nor under any disability, the party in such case giving reasonable notice of the time and place of taking such deposition to the adverse party.

XXVII. If any person summoned as a witness, and attending the court or the commissioners to take his or her deposition as aforesaid, shall refuse to give evidence upon oath or affirmation, as the case may be, to the best of his or her knowledge, every person so refusing shall be committed to prison either by the court or commissioners, there to remain without bail or mainprise until he or she shall give such evidence.

XXVIII. No person convicted of perjury shall be capable of being a witness in any case, nor shall any negro, mulatto, or Indian be admitted to give evidence but against or between negroes, mulattoes or Indians.

XXIX. If any person summoned as a witness to attend the district court, shall fail to attend accordingly, they shall fine such person five pounds, or one thousand pounds of tobacco, at the option of the payer, to the use the party for whom such witness was summoned; and the witness so failing, shall farther be liable to the action of the party for all damages sustained by the non-attendance of such witness; but if sufficient cause of his or her inability to attend be shewn to the court at the time he or she ought to have appeared, or at the next succeeding court, then no fine or action shall be incurred by such failure.

XXX. Witnesses shall be privileged from arrests in all cases during their attendance at the district court, coming to and returning from thence, allowing one day for every twenty miles from their places of abode; and all such arrests shall be void.

XXXI. Every witness summoned and attending the district court shall be paid by the party at whose suit the summons issued, two pounds of tobacco, or three pence per mile for travelling to the place of attendance, and the same for returning, besides ferriages, and sixty pounds of tobacco, or seven shillings and sixpence, per day, for his attendance which allowance shall be entered by the clerk of course, except where disputes arise concerning the same, and then such disputes shall be determined by the court.

XXXII. Interpreters may be sworn truly to interpret, when necessary.

XXXIII. And the court shall have power to try all issues, and enquire of damages by a jury in all causes before them, and to determine all questions concerning the legality of evidence, and other matters of law which may arise, for which trial the court shall cause the sheriff attending them to impanel and return jurors of the by-standers, qualified as the law directs concerning the general court, to be sworn well and truly to try the issue joined, or to enquire of damages, as the case may be, according to the evidence.

XXXIV. For good cause, which shall be entered of record, and may be enquired into on a writ of error, the court may discharge a juror without the consent of the parties.

XXXV. Special juries and juries *de medietate lingue*, may be directed by the court to be summoned.

XXXVI. Jurors knowing any thing relative to the point in issue, shall disclose the same in open court.

XXXVII. Any juror guilty of a contempt to the court, shall be fined by the court any sum not exceeding ten pounds.

XXXVIII. Juries may separate with the leave of the court.

XXXIX. Papers read in evidence, though not under seal, may be carried from the bar by the jury.

XL. No sheriff shall converse with a juror but by order of the court.

XLI. The qualification of jurors shall be the same as in the general court.

XLII. The fee for summoning a jury shall be fifty pounds of tobacco, or six shillings and three-pence, to be taxed in the bill of costs.

XLIII. Every person desirous of suffering a non-suit on trial, shall be barred therefrom, unless he do so before the jury retire from the bar.

XLIV. If in detinue the verdict should omit price or value, the court may at any time award a writ of enquiry to ascertain the same.

XLV. If on an issue concerning several things in one count in detinue, no verdict be found for part of them, it shall not be error. but the plaintiff shall be barred of his title to the things omitted.

XLVI. Where there are several counts, one of which is faulty, and entire damages be given, the verdict shall be good; but the defendant may apply to the court to instruct the jury to disregard such faulty count.

XLVII. Not more than two new trials shall be granted to the same party in one cause.

XLVIII. Final judgment shall be given in all cases in the district court.

XLIX. If in detinue price or value be omitted, the court may award at any time a writ of enquiry to ascertain the same.

L. A judgment on confession shall be equal to a release of errors.

LI. The statutes of jeofails which were passed prior to the year one thousand seven hundred and fifty three, are declared to be in force; and no discontinuance shall be for a failure to hold a court.

LII. In all judgments for plaintiff or defendant, the clerk shall allow a lawyer's fee in the bill of costs, if the party employed one; which fee in real, personal, or mixed actions, where the title or bounds of land shall or may come in question, shall be thirty shillings, or two hundred and forty pounds of tobacco; and in all other causes fifteen shillings, or one hundred and twenty pounds of tobacco, at the election of the party paying.

LIII. There shall not be allowed in the bill of costs the charge of more than three witnesses for the proof of any one particular fact.

LIV. The laws of costs shall not be interpreted as penal laws.

LV. The district courts shall possess the same power over costs as the general court now possesses.

LVI. Executions shall issue to any sheriff or coroner from the clerk of the district courts, and be returnable to the first day thereof.

LVII. The court shall hear and determine motions against sheriffs in all cases, and according to the rules prescribed by law.

LVIII. An execution, writ or other process, appearing to be duly served in other respects; shall not be deemed void, although it be not directed to any sheriff.

LIX. Notice on replevy-bonds shall be good if given to the party in person, or delivered in writing to any free person above the age of sixteen years, who shall be a member of the family of the obligor, and shall be informed of the purport of such notice, or left at some public place at the dwelling house or other known place of residence of such obligor.

LX. If a replevy-bond be quashed as faulty, the sheriff taking the same shall be at all times liable for damages to the party injured, or his representatives.

LXI. If a distringas issue in detainue, the court for good cause shewn may direct it to be superseded so far as it respects the specific thing, and to be executed for the alternative price or value only, if fixed in the judgment, or to be fixed by a writ of enquiry.

LXII. Grand juries shall be summoned to appear on the first day of every court according to the qualifications of the general court, and shall present offences committed within the district.

LXIII. The district court to be held as aforesaid shall have full power to hear and determine, all treasons, murders, felonies, and other crimes and misdemeanors which shall be brought before them.

LXIV. When any person, not being a slave, shall be charged before a justice of the peace with any criminal offence which, in the opinion of such justice, ought to be examined into by the county court, the said justice shall take the recognizance of all material witnesses to appear before such court, and immediately by his warrant commit the person so charged to the county jail, and moreover shall issue his warrant to the

sheriff of the county requiring him to summon the justices of the county to meet at their court-house on a certain day, not less than five nor more than ten days after the date thereof, to hold a court for the examination of the fact; which court shall consider whether, as the case may appear to them, the prisoner may be discharged from further prosecution, may be tried in the county, or must be tried in the district court, and if they shall be of opinion that the fact may be tried in the county, the prisoner shall be bound over to the next grand jury to be held for that county for trial, or upon refusing to give sufficient bail, shall be remanded to the county jail, there to remain until such court, or until he or she shall be bailed; but if they shall be of opinion that the prisoner ought to be tried in the district court, they shall take the depositions of the witnesses, and bind such as they shall think proper by recognizance to appear and give evidence against such criminal at his trial, and having remanded the prisoner to jail, any two of the justices, one being of the quorum, by warrant under their hands and seals, shall direct the sheriff or his deputy to remove the prisoner and commit him or her to the district jail, there to be safely kept until he or she shall be discharged by due course of law; by virtue of which warrant the sheriff, as soon as may be, shall remove the prisoner and deliver him or her with the warrant to the keeper of the district jail, who shall receive and safely keep him or her accordingly. And for enabling the sheriff safely to convey and deliver such prisoner, the said two justices by their warrant shall empower him, as well within his county as without, to impress such and so many men, horses, and boats as shall be necessary for the guard and safe conveyance of the prisoner, proceeding therein as the law may direct in cases of impressing on other occasions; and all persons are to pay due obedience to such warrant. *Provided*, That if such persons shall, in the opinion of the court be bailable by law, he or she shall not be removed within twenty days after the examining court, but shall and may be admitted to bail before any justice of the same county within that time, or at any time afterwards before any judge of the general court.

LXVI. When any person shall be so removed to be tried for treason or felony, the clerk of the county

from whence the prisoner is removed shall, immediately after the court held for his or her examination, issue a writ of *venire facias* to the sheriff of the county, commanding him to summon twelve good and lawful men, being freeholders of the county, residing as near as may be to the place where the fact is alledged to have been committed, to come before the district court on the first day of its next session, and return a pannel of their names; which freeholders, or so many of them as shall appear, not being challenged, together with so many other good and lawful freeholders of the bystanders as will make up the number twelve, shall be a lawful jury for the trial of such prisoner.

LXVI. Every venire man summoned and attending the district court, shall have the same allowance for travelling and attendance as is herein before provided for witnesses, to be paid by the public.

LXVII. If any person summoned as a venire man shall fail to attend accordingly, not having a reasonable excuse, to be made at the time he should have appeared, or at the next district court, they may fine every such person, not exceeding forty shillings, or four hundred pounds of tobacco, for the use of the commonwealth.

LXVIII. If a prisoner shall desire any witnesses to be summoned for him or her to appear either at the examining court, or on the trial at the district court, the clerk of the said court, or of the county court as the case may be, shall issue subpoenas for such witnesses, who being summoned and attending, shall have the like allowance for travelling and attendance, and be subject to the same penalty for failing to attend, as is provided for witnesses in civil causes.

LXIX. The keeper of the district jail by order of any two justices of his county, may impress guards for the safe keeping of all prisoners in his custody, to be paid by the public.

LXX. The fee to the sheriff of the county and to the district jailor for keeping and dieting any such prisoner, shall be one shilling per day, and no more.

LXXI. Where the prisoner shall be convicted, and hath estate sufficient to pay the charges of prosecution, the whole shall be paid out of such estate, and the public only made chargeable where there is no such estate, or not sufficient to be found.

LXXII. The sheriff for the time being of the county, in which the district court is held, shall before every meeting of the district court, summon twenty four freeholders of this commonwealth, qualified as the laws require, for grand jurors, to appear at the succeeding district court on the first day thereof, which the said sheriff is hereby empowered to do, as well without his county as within the same; and the said twenty four men, or any sixteen of them, shall be a grand jury, and shall enquire of, and present, all treasons, murders, felonies, or other misdemeanors whatever, which shall have been committed or done within this commonwealth; and upon any indictment for a capital offence, being found by a grand jury to be true, against any person or persons, the judges shall cause such person or persons to be immediately arraigned and tried by a petit jury, summoned as herein before directed, and he or they being found guilty, pass judgment as the laws direct, and thereupon award execution; and if the prisoner shall be found not guilty, to acquit him or her of the charge. *Provided*, That in all trials, the defendant shall, on petition, be allowed counsel; and that when sentence of death shall be passed upon any prisoner, there shall be one calender month at least between the judgment and execution.

LXXIII. No grand jury shall make any presentment of their own knowledge; upon information of fewer than two of their own body, nor where the penalty inflicted by law is less than twenty shillings, or two hundred pounds of tobacco.

LXXIV. Every person summoned to appear on a grand jury, and failing to attend, not having a reasonable excuse, shall be fined by the court, not exceeding four hundred pounds of tobacco, to the use of the commonwealth.

LXXV. Upon presentment made by the grand jury of an offence not capital, the court shall order the clerk to issue a summons, or other proper process, against the person or persons presented, to appear and answer such presentment at the next court; and thereupon hear and determine the same according to law.

LXXVI. The clerk of the district court shall, in a book by him kept for that purpose, enter the names of all the venire men and witnesses who attend for the trial of criminals at such court, the number of days

each shall attend, the ferries they shall have crossed, and the distances they shall have travelled on that occasion, and shall give certificates for the same, which shall be paid in the manner directed by law.

LXXVII. The keeper of the district jail shall constantly attend the said court, and execute the command of the court from time to time, and take or receive into his custody all persons by the court to him committed on original or mesne process, or in execution of any civil suit, or for any contempt of the court, and him or them safely keep, until thence discharged by due course of law; and may demand and receive of every such prisoner the legal fees for diet and care; but where such prisoner is so poor as not to be able to subsist him or herself in prison, the jailor shall be allowed by the public one shilling per day for the maintenance of every such poor prisoner; and no security shall be demanded of him or her, nor shall he or she be detained for such prison-fees.

LXXVIII. And the jailor, during his continuance in office, shall be exempted from serving in the militia and on juries, and shall have such allowance over and above the fees, as by the general assembly shall be thought reasonable.

LXXIX. The court may adjourn any matter of law to the court of appeals, or any party thinking himself aggrieved by the judgment of the district court, may appeal thereupon as of right, or obtain a writ of error thereto from the court of appeals, not of right, but at the discretion of the court.

LXXX. Bonds shall be required according to the act constituting the court of appeals, except when it may be just to dispense with the same.

LXXXI. Bond and sufficient security given by any party, where there are several obtaining the writ of error or appeal, shall be sufficient.

LXXXII. On an adjournment of a question or writ of error, the same proceedings shall be had as in cases heretofore going from the general court.

LXXXIII. The sheriff of the county in which the court sits shall be an officer thereof, and as such perform the duties now performed by the sheriff of Henrico in and concerning the general court.

LXXXIV. The court may appoint a cryer, who shall hold his office during good behaviour, and be

entitled to a reasonable allowance for his services, *per diem*, to be certified by the said court to the auditor for his warrant of payment.

LXXXV. The clerk's fees shall be the same with those in the county courts for similar services, and for all other services the same as those of the clerk of the general court, and shall be collected and accounted for in the same manner, and under the same penalties, as those of the clerk of the general court now are.

LXXXVI. When any cause shall be finally determined, the clerk of the district court shall enter all the pleadings and papers filed as evidence therein, and the judgment thereupon, so as to make a complete record thereof; and those wherein the title of lands is determined, shall be entered in a separate book to be kept for that purpose.

LXXXVII. For preventing errors in entering up the judgments of said courts, the proceedings of every day shall be drawn at large by the clerk, against the next sitting of the court, when the same shall be read in open court, and such corrections as are necessary being made therein, they shall be signed by the presiding judge, and carefully preserved among the records.

LXXXVIII. On the last day of each court, the proceedings therein shall be drawn up, read, corrected, signed, and preserved as aforesaid.

LXXXIX. The attorney general shall provide deputies, to be approved by the executive, to act in those courts which he may not himself attend.

XC. No writ of error or supersedeas shall be granted in any case, until a final judgment shall be given in the county or other inferior court.

XCI. The party praying a writ of supersedeas, shall petition the district court for the same, pointing out the error he means to assign in the proceedings, and procure some attorney practising in the district court, to certify that, in his opinion, there is sufficient matter of error for reversing the judgment; whereupon the court in their session, or any two judges of the court of appeals in vacation, may order such writ to be issued, or reject the petition, as to them shall seem just; but no supersedeas shall be issued in any case, except such, as in respect to its value or nature, would have admitted of an appeal.

XCII. Where any person or persons, body politic or corporate, shall think themselves aggrieved by the judgment or sentence of any county court, or court of hustings, in any action, suit or contest whatever, where the debt or damages, or other thing recovered or claimed in such suit, exclusive of the costs, shall be of the value of ten pounds, or two thousand pounds of tobacco, or where the title or bounds of land shall be drawn in question, or the contest shall be concerning mills, roads, the probate of wills, or certificates for obtaining administration, such person or persons, body politic or corporate, may enter an appeal from such judgment or sentence to the first day of the next court of the district in which such county is.

XCIII. Where the defendant in any personal action appeals, if the judgment be affirmed, the damages, besides costs, shall be ten per centum per annum upon the principal sum and costs recovered in the inferior court, in satisfaction of all damages or interest.

XCIV. In real or mixed actions the damages shall be ten pounds, or two thousand pounds of tobacco, besides costs; and where the plaintiff appeals in any action, if the judgment be affirmed, and in all controversies about mills, roads, probate of wills or certificates for administration, if the sentence of the inferior court be affirmed, the party appealing shall pay to the other all costs.

XCV. Writs of error shall not be sued out of the district courts to judgments of inferior courts, but with leave of the court, upon motion of the party desiring the same, and ten days previous notice thereof given in writing to the adverse party.

XCVI. Before the issuing of a writ of error or supersedeas, the party praying the same shall enter into bond, with sufficient security, in a penalty to be fixed by the discretion of the court, with condition to satisfy and pay the amount of the recovery in the county or other inferior court, and all costs and damages awarded by the district court, in case the judgment or sentence be affirmed.

XCVII. If upon hearing any writ of error or supersedeas, the judgment of the inferior court be reversed, the district court shall enter such judgment thereupon as ought to have been entered in the inferior court.

XCVIII. If any person or persons shall desire to remove any suit depending in any inferior court into the district court, provided the same be originally cognizable therein, a *certiorari* for such removal may be granted by the district court, for good cause shewn upon motion, and ten days notice thereof given in writing to the adverse party; or in vacation, the party desiring such writ shall, by petition to the judges of the high court of appeals, set forth his or her reasons, and make oath before a magistrate to the truth of the allegations of such petition; whereupon any two judges of the said court may, under their hands, order the *certiorari* to issue, and direct the penalty of the bond to be taken previous thereto, or may reject such petition, as to them shall seem just; provided, that ten days previous notice of the time and place of applying for such writ be given in writing to the adverse party; upon which order of the judges, the clerk shall issue the *certiorari*.

XCIX. Bonds to be given in court for writs of error, *supersedeas*, *certiorari*, or any other cause, shall be valid and sufficient, if given by a responsible person, and security, although the party interested in the event of the suit be not an obligor.

C. On writs of *scire facias*, for renewal of judgments, no judgment shall be rendered on the return of two *nihilis*, unless the defendant reside in the district, or unless he be absent from the commonwealth, and have no known attorney within the same. *Provided*, That the party shall enter into bond with sufficient security, in the penalty so directed, with condition for satisfying all money or tobacco and costs, which shall be recovered against the party in such suit; but if any suit so removed by writ of *certiorari* shall be remanded to the inferior court by writ of *procedendo* or otherwise, such cause shall not afterwards be removed to the district court before judgment shall be given therein in the inferior court.

CI. The clerk of the district courts shall carefully preserve all such petitions for writs of *certiorari*, with the affidavits thereto, in the office; and if any person in such affidavit shall make a false oath, and be thereof convicted, upon a prosecution commenced within twelve months after the offence committed, such offend-

er shall suffer the pains and penalties directed for wilful and corrupt perjury.

CII. No supersedeas or writ of error shall be granted to any judgment in the district or county, or other inferior court, after the expiration of twelve months from and after the date thereof.

CIII. Writs of habeas corpus may be granted without a seal, pursuing in other respects the act, intituled "An act directing the mode of suing out and prosecuting writs of habeas corpus."

CIV. The sessions of the high court of appeals shall in future commence on the twenty ninth day of May, and the twenty ninth day of October, in every year; or when either of those days may happen to be Sunday, then on the Monday following, and use the same jurisdiction over the district courts as it has heretofore exercised over the general court, and shall moreover establish rules of practice to be observed at the district courts, provided the same be in support of, and not contrary to this act.

CV. The sessions of the high court of chancery shall hereafter commence on the thirteenth day of June, and on the thirteenth day of December, in every year; or when either of those days may happen to be Sunday, then on the Monday following.

CVI. The sessions of the general court shall hereafter commence on the twenty-fourth day of May, and on the twenty-fourth day of October in every year; and when either of those days may happen to be Sunday, then on the Monday following, and shall sit six juridical days successively each time, unless the business depending before them be sooner dispatched.

CVII. And that henceforth all executions, or other process issuing from the general court, shall be made returnable to the first day of the said court: and that writs of scire facias may issue from and be tried in the said general court on all judgments which heretofore have been or hereafter may be obtained therein; and may enter up judgments against any sheriff, deputy sheriff, or coroner, for all monies received by them upon any execution issued, or which may issue from the said court, and to award execution upon all replevy bonds, or bonds taken to see goods forth coming upon any execution which has issued or may hereafter issue

from the said court ; any thing in this act to the contrary notwithstanding.

CVIII. The said court, while in session, is hereby authorized and required, without fee or reward, to examine into the fitness and capacity of such as may apply for license to practice law in the superior or inferior courts of this commonwealth ; and without the approbation of the said court, no person, who is not licensed at the passing of this act, shall be admitted to practice ; the judges shall be governed in the examination by the rules prescribed by an act, intituled "An act regulating the practice of attornies."

CIX. But the said court shall exercise no power, jurisdiction or authority, which by this act is given to the district courts or its judges ; any law to the contrary notwithstanding.

CX. The judges of the district courts shall have authority to superintend and regulate the jails of the counties where their sessions are to be holden, in the same manner that the general court might heretofore regulate and superintend the public jail.

CXI. The jailor in the said counties shall also be equally amenable to the judges of the district court as the keeper of the public jail has been to the judges of the general court ; and the several counties in which the district courts are established, shall defray all necessary expences of erecting, repairing, and keeping in repair proper jails and court houses.

CXII. All the penalties hereby inflicted, and not otherwise appropriated, shall be, one moiety to the use of the commonwealth, and disposed of as the general assembly shall direct, and the other moiety to the informer, and be recovered by action of debt or information in any court of record where the same is cognizable ; and where fines shall be laid by the district court on any person or persons for not attending as jurymen, the clerks shall annually before the last day of January, transmit to the sheriff of each county a list of all such fines, and all others imposed, to the use of the commonwealth, by the district courts, on persons residing in the county ; and such sheriff shall collect and levy the same in like manner as is provided for county levies, and account for and pay the money, deducting five per centum for commission, and also insolvents, to the treasurer of this commonwealth, on or

before the first day of September, or the solicitor may recover the same with costs, by motion in the district court, on ten days previous notice given in writing of such motion: And the clerks of the district courts shall deliver copies of all lists so sent to the sheriffs to the solicitor, to enable him to call such sheriffs to account.

CXIII. Replevin bonds may be given by a responsible person, and a security in the clerk's office, or to the sheriff before seizure; in the former of which cases the clerk shall take a fee of five shillings only, in the latter the sheriff shall take a fee of five shillings only.

CXIV. The causes depending in the general court on the first day of January, in the year one thousand seven hundred and eighty-nine, shall be arranged, by the clerk thereof, according to the districts herein described, taking for his rule the county in which the original or other writ may have been executed, or from which judgment shall have been removed, and with the papers therein delivered by him to the clerks of the different districts hereby established, together with a state of the costs which may have accrued in each suit to the time of such delivery. And the counsel then retained in such suits shall be answerable for the prosecution and defence of the same, as the case may be.

CXV. All laws whatsoever contrary to the purview hereof, and especially those vesting the general court with powers similar to those now given to the district courts, shall be, and the same are hereby repealed.

CXVI. This act shall take effect and be in force from and after the first day of July, in the year of our lord one thousand seven hundred and eighty-eight, and not before.

CHAP. XL.

An act for the more speedy recovery of debts due to this commonwealth.

[Passed January the 7th, 1788.]

Land of sheriffs and public collectors may be taken

I. BE it enacted by the General Assembly, That lands and tenements shall and may by virtue of writs of *fieri facias* be taken and sold in satisfaction of all

judgments to be hereafter obtained on behalf of the commonwealth against any sheriff, coroner, or other public collector, or against his or their security or securities, *Provided*, That the same shall not extend to any such security or securities who shall have become so before the passing of this act.

on a *fieri facias* on judgments of commonwealth.

II. Every judgment obtained against any sheriff, coroner, or other public collector shall bind the property of the lands and tenements of such public debtor from the date thereof.

Judgments to bind the lands, from their date.

III. When the goods and chattels taken in execution to satisfy a judgment of the commonwealth by virtue of a *fieri facias*, shall not in the opinion of the officer levying the same be sufficient to satisfy the debt with damages and costs, the sheriff or other officer shall at the same time give public notice at the churches, and meeting-houses, if any there be, and court-house of his county on the next court-day, and shall moreover give notice to the owner if he be in the county, or otherwise to his agent, if any such be known, at some time appointed in the notice, not less than ninety nor more than ninety six days from the time of levying the execution, that the said lands and tenements will be exposed to sale by auction on the premises, or at such other place in the county as the owner shall by writing under his hand delivered to the officer direct.

Rules, as to levying executions on lands.

IV. If the public debtor against whom a judgment shall be entered have several parcels of land which lie in one and the same county, he or his agent may by writing under his hand at any time before the day of sale, require the sheriff or officer to whom a writ of *fieri facias* upon the judgment shall be directed to make the debt or damages and costs of such of the said parcels of land as the owner or his agent shall think proper; and if the parcels lie in different counties, the clerk shall and may at the like request in writing direct the *fieri facias* to the sheriff or officer of any county which the party or his agent, making oath or solemn affirmation that he hath lands there, shall particularly mention at any time before the writ shall be delivered to the officer. And if the debt, damages and costs be made of any other parcel of land, or of land lying in any other county than that mentioned in such written requisition, the sale of such other parcel of the land in such other county shall be void. If the owner

Debtor may specify the lands to be sold.

**Lands how
sold.**

of the land before or at the day of sale shall not make payment of the debt due to the public, the sheriff or officer shall proceed to sell the said lands and tenements, or such estate and interest as the party convict shall have therein, or so much thereof as will be sufficient, laid off in one intire parcel if it may be done, in such place and manner as he or his agent if he think proper shall direct, for ready money or other property as the demand may be, and the costs ; but if the estate cannot be sold for three fourths of its value in the opinion of the valuers of the county, he shall sell the same upon three months credit, taking bond of the purchasers with sufficient surety or sureties for payment to the chief magistrate of this commonwealth for the time being. Every bond thus taken shall mention on what occasion the same was taken, and shall by the sheriff or officer be immediately returned to the clerk's office from whence it issued, there safely to be kept, and when due, execution thereon may be awarded in the same manner, and on the same conditions that executions are now awarded on replevy bonds, and shall in like manner be indorsed by the clerk that no security is to be taken.

**How convey-
ed.**

V. In all sales of lands by virtue of an execution the sheriff or other officer shall convey the same to the purchaser at his costs by deed in writing, indented, sealed, and recorded as the laws direct for other conveyances of land, which deeds shall recite the execution, purchase, and consideration, and shall be effectual for passing to the purchaser all the estate and interest which the debtor had and might lawfully part with in the lands.

**If lands &c. of
sheriff are in-
sufficient,
judgment
may be ob-
tained a-
gainst secu-
rities.**

VI. If the lands and tenements, goods and chattels of any sheriff, coroner, or other public collector, are insufficient to satisfy the debt, damages and costs due to the public, judgment shall be obtained against his security or securities in the same summary way that judgment may by law be obtained against his or their principal, and the lands and tenements, goods and chattels of such security or securities, except as before excepted, shall be taken in execution to satisfy the balance of such debt, damages, and costs, in the same manner as the lands and tenements, goods and chattels of his or their principal may be taken and sold agreeable to this act.

VII. In every writ of *feri facias* upon judgments hereafter to be obtained by the commonwealth against any sheriff, coroner, or other public collector after the words "We command you that of the" the clerk from whose office such writ shall issue shall insert the words "Lands and tenements" and conform the subsequent part of such writ thereto.

Form of executions against sheriffs, &c.

VIII. And whereas large sums of money are retained in the hands of sheriffs and other public collectors to the great injury of the commonwealth: For remedy whereof, *Be it enacted*, that where the property of any sheriff, coroner, or other public collector, or their securities have been taken in execution to satisfy a judgment obtained by the commonwealth, and the same were not sold for want of buyers, and return thereon hath been made to that effect, or where the property of any sheriff, coroner, or other public collector, or their securities, have been exposed to sale by virtue of any writ of *venditioni exponas* to satisfy a judgment obtained by the commonwealth, and could not be sold for want of buyers, and return hath been made to that effect, in either of the above cases it shall and may be lawful for the executive, and they are hereby authorised and required, to direct the officer to whom any subsequent process in either of the above cases ought to issue, provided such property cannot be sold agreeable to the directions of such subsequent process, to cause such property to be removed to such place in any adjacent county as the executive may direct, and there to be sold for money or government securities on such terms and in such proportions as they shall judge expedient, provided that if such property will not sell for three fourths of its value in the judgment of the valuers of the county where the sale shall be made, the sheriff or other officer shall sell the same on three months credit, and shall take bonds in the same manner, and the like proceedings shall be had thereon, as is herein before directed in cases of bonds taken on the sale of lands and tenements sold by virtue of this act.

Power of executive to direct removal of property to another county.

IX. In every case where any writ of *feri facias* or *venditioni exponas* issued against the estate of a sheriff on behalf of the commonwealth, if by law the same ought to be directed to a sheriff, such writ or writs shall be executed by the high sheriff. In like manner

Executions in behalf of commonwealth, to whom to be directed.

where any writ of *fieri facias* or *venditioni exponas* shall hereafter issue at the instance of the commonwealth against the estate of any sheriff, coroner, or other public collector, or their securities, and the goods and chattels of such debtor cannot be sold for want of buyers, the executive shall direct the property to be removed and sold as above directed in the cases of such sheriffs, coroners, public collectors, and securities, whose property has not been sold for want of buyers.

Duty of solicitor to inform executive.

X. It shall be the duty of the solicitor general forthwith to acquaint the executive when their interposition is, or hereafter may become, necessary to the carrying this act into effect.

Fraudulent practices how detected.

XI. And whereas there is reason to suspect fraudulent practices have prevailed in the sale of estates of public debtors, to prevent such practices in future, *Be it enacted*, That the solicitor general, immediately on the return of any process which he shall suspect was fraudulently executed, shall give notice thereof to the executive, whose duty it shall be to direct the attorney of the commonwealth for such county to file an information thereupon, in which like proceedings shall be had as in other cases of information, and if it shall appear that such sale was fraudulently made, the property of any thing thus fraudulently sold shall not be changed, but remain subject to the demand of the commonwealth; and the officer who executed such process, if he be concerned in such fraud, shall ever after be rendered incapable of being appointed to any office of honor or profit.

Remedy against sheriffs, collecting revenue, without security.

XII. And whereas sheriffs and other public collectors in some instances have proceeded to collect the public revenue without having entered into bond with security for the faithful performance of that duty, which cannot be recovered from such collectors except by the tedious process of law: For remedy whereof, *Be it enacted*, That every sheriff or other public collector who may have attempted the collection of any of the different species of taxes in any county or corporation in this state, shall be liable to a judgment and execution for the same sum, and in the same summary way as if such sheriff or other public collector had actually given security agreeable to law.

Expences of removing property

XIII. In all executions founded upon judgments heretofore obtained, where it may be necessary to re-

move any property by virtue of this act, the extra expences attending such process, shall be discharged by the commonwealth, but in all executions upon judgments hereafter to be obtained such additional expences shall be paid by the owner of the property, and taxed in the costs of the prosecution. how defray-
ed.

XIV. *And be it further enacted*, That no person whatsoever shall be capable to serve or execute the office of under sheriff or deputy sheriff for any longer time than two years, in any period of four years, unless he shall produce to the court of his county satisfactory proof of his having collected and accounted for the taxes assigned to him by his former principal. *Provided*, That nothing herein contained shall be construed to prevent any under sheriff now in office from serving the time that his principal shall be in office. How long, &
on what condi-
tions deputy
sheriff may
serve.

XV. The clerks of the respective county and corporation courts within this commonwealth shall on or before the first day of July transmit to the solicitor general a list of the several fines which may have been imposed by their respective courts since the first day of January in the year one thousand seven hundred and eighty two; and if no fine shall have been imposed by any of the courts within the said period, the clerk's shall so certify. Every clerk failing to perform the aforesaid duty shall forfeit and pay fifty pounds, to be recovered by the solicitor on motion in the general court, and applied to the use of the commonwealth, *Provided*, ten days previous notice be given in writing of every such motion. Clerks, when
to transmit
lists of fines.

CHAP. XLI.

An act to repeal so much of every act of assembly as authorises the auditor of public accounts to issue certificates for militia service performed during the late war.

[Passed the 7th of January, 1788.]

1. WHEREAS it is just and expedient to repeal so much of every act of assembly as authorises the audi- Certificates
for militia ser-
vices, per-
formed du-

ring the late war, no longer to be issued.

tor of public accounts to issue certificates for militia service performed during the late war; *Be it therefore enacted*, That so much of all and every act of assembly, heretofore passed, as authorises the auditor of public accounts to issue certificates for militia service performed during the last war, shall be and the same is hereby repealed.

CHAP. XLII.

An act to remedy abuses in the manner of selling lands for the payment of public taxes.

[Passed the 7th of January, 1788.]

Mode of selling lands for payment of taxes, prescribed.

I. WHEREAS the manner of selling land, as heretofore practised by the various sheriffs and collectors, for the payment of the public taxes due thereon, has in many instances, produced great oppression; for remedy whereof, in future, *Be it enacted*, That all sales of land for payment of taxes shall be on the premises, and any sale made thereof otherwise shall be void.

II. No sale shall be made of land for payment of taxes if other property sufficient belonging to the person chargeable with the land tax can be found in the county.

III. Before any sale shall take place of any land for payment of taxes, notice thereof shall be given at least eight weeks in the gazette of the public printer, and shall be advertised at the court-house of the county where the land lies on the first day of two several courts previous to such sale, and proclamation shall also be made thereof at the door of the court-house, on the said days, between the hours of twelve and four.

IV. All sales of land so made shall be conducted by the high sheriff, where the sheriff has entered into bond for the collection of the taxes. And if any other person hath been or shall be appointed by the court to collect the taxes, the sales of land made to discharge

the taxes shall be conducted by the said collector and not by a deputy.

V. The said high sheriff or collector of taxes shall give to the commissioner of the land tax in his county at least thirty days notice previous to any sale of land as aforesaid, and the said commissioner shall attend the said sale for which he shall be allowed six shillings, to be paid by the person chargeable with such land tax: And if the land so offered for sale will not yield a price in the opinion of the said commissioner, equal to one half of the value thereof, taking for his guide, in estimating the value, the price at which such land is charged by the act for equalizing the land tax, and having regard to the quality of the particular part of the land so offered for sale, then the said commissioner shall bid for and purchase the said land on account of the public, and shall give to the sheriff or collector a certificate thereof, expressing therein the amount of taxes for which such land hath been sold, which certificate being by the said sheriff or collector paid to the treasurer, he shall have credit for the same in part of the land tax; and the person who was chargeable originally with the said land tax, may discharge the same and be entitled to all the estate he held in such land in as full and ample a manner as if the said sale had never been made: *Provided* payment be made of the said taxes, agreeable to the certificate of the commissioner, into the public treasury at any time within six months after such certificate shall be delivered to the treasurer together with twenty five per centum damages on the amount thereof; or if payment be made at any time, not less than six months nor more than two years thereafter, the same may be discharged by payment of double the amount of the said certificate: *But provided* payment shall not be made thereof within two years from the time that such certificate shall be paid to the treasurer, then and in that case the governor shall appoint such person or persons, as may to him with advice of council seem proper, to sell the said land and convey the same to the purchaser thereof, and to pay the amount of the debt due to the public, with the damages and expences of sale in the first instance from the money arising from the sale thereof, and to pay the surplus, if any, to the person who may have been proprietor of the land at the time the commissioner of the

taxes may become purchaser thereof on public account, or to the legal representative or representatives of such proprietor

VI. All sales of land for taxes, where the sheriff or collector, or any deputy sheriff or collector, or any person in trust for them or either of them, or in partnership with them or either of them, is the last bidder for such land, shall be considered as held in trust for the payment of the taxes for which such land is offered for sale, and may be redeemed by the proprietor thereof by payment of the taxes due thereon, and the charges of sale, with interest thereon at the rate of six per centum per annum, and ten per centum damages.

VII. *Provided always* that nothing herein contained shall be construed to authorise any commissioner to purchase any land on account of the public to a greater amount than the sum due to the public for the taxes thereof.

VIII. In all cases of landlord and tenant, wherein the tenant shall covenant for the payment of the taxes by law imposed upon the land by him tenanted, the property of every such tenant thereon being shall be liable to the payment thereof; and to ascertain the same, the clerks of the several county courts shall, annually, before the first day of April, certify to the commissioners of the tax in his county an abstract of all deeds or leases for the tenancy of lands lying therein which shall have been recorded within twelve months last preceding, and the said commissioners shall enter the same in their return of taxable property for the guidance of the sheriff or collector.

IX. So much of every act or acts of assembly as comes within the purview of this act shall be, and the same is hereby repealed.

X. *And be it further enacted*, That where any deed or conveyance for land lying within the district of Kentucky, hath been, or shall be recorded in the general court of this commonwealth, and the legal tax thereon shall have been paid, and the same deed or conveyance shall be transmitted with a certificate thereof to be recorded also in the said district, such deed or conveyance shall be admitted to record in any of the courts thereof, wherein the same ought by law to be recorded, without payment of any further tax thereon.

CHAP. XLIII.

An act to exempt certain persons from the payment of county levies and poor rates.

[Passed the 21st of November, 1787.]

L. BE it enacted by the General Assembly, That the courts of the several counties within this commonwealth are hereby empowered and required, upon application, to exempt from payment of county levies and poor rates, all such persons as from age or infirmities are, or may hereafter be entitled to an exemption from the payment of public taxes; and that all those persons who have been exempted heretofore from the payment of public taxes, shall be and are hereby exempted from the payment of the said levies and poor rates.

County courts may exempt from payment of levies & poor rates.

CHAP. XLIV.

An act providing for the regular payment of the expences accruing from the trial of criminals in the county and corporation courts.

[Passed the 3d of January, 1788.]

I. WHEREAS no certain adequate mode is fixed by law for the regular payment of the expences attending the examination and trial of criminals in the county courts, and it is necessary that the same should be provided for and regularly paid by the public; *Be it therefore enacted by the General Assembly,* That the several county and corporation courts within this commonwealth, having jurisdiction in such examinations and trials, shall, annually in the month of September or October, cause to be certified to the auditor of pub-

Criminal charges in county courts how certified and paid.

lic accounts all claims for expences accruing after the first day of January, one thousand seven hundred and eighty-eight, from the examination and trial of criminals, for guards and the maintenance of criminals in their respective counties and corporations, for conveying them to the public jail for further trial, and for imprisonments, for misdemeanor or breach of the peace, and all other charges properly chargeable to the public, together with the vouchers on which such claims have been allowed, and the auditor is hereby authorised and required to liquidate and adjust the said claims, and after having converted such of them as are in tobacco (the price whereof is not otherwise settled by law) into money, at the rate of twelve shillings and six pence per hundred, to grant warrants on the treasury to the respective claimants for the amount of their claims; which warrants so issued shall be receivable in payment of taxes in like manner as those granted for expences attending criminal prosecutions in the general court.

II. *And be it further enacted*, That the accounts of all such charges as have been heretofore levied or assessed, or which may be assessed in the levy to the first day of January one thousand seven hundred and eighty-eight, by any county court on their respective counties and charged to the public shall be certified and transmitted by the clerks of such counties to the auditor of public accounts, who is hereby authorised and directed to liquidate and adjust the said accounts, and after having converted such of them as are in tobacco (the price whereof is not otherwise settled by law) into money, at the aforesaid rate of twelve shillings and six pence per hundred, to grant certificates to the respective counties for the amount of their claims, the payment of which certificates shall hereafter be provided for in such manner as the general assembly shall direct.

III. So much of all and every act and acts as comes within the purview of this act shall be, and the same is hereby repealed.

CHAP. XLV.

*An act concerning the redemption of
paper money funded agreeable to
the recommendation of congress.* ✓

[Passed the 5th of January, 1788.]

I. WHEREAS so much of the laws of revenue as direct the application of one tenth of the money arising from the tax on lands and lots to the redemption of the money funded agreeable to the recommendation of congress of the eighteenth of March one thousand seven hundred and eighty, have been found unequal in their operation: *Be it therefore enacted*, That so much of any act or acts of assembly as permits the payment of any part of the taxes on lands and lots in the said paper money, shall be, and the same is hereby repealed:

Provision for
redemption
of certain pa-
per money.

II. And that more effectual provision may be made for the redemption of so much of the said money as hath been heretofore actually emitted, the treasurer is hereby directed and required to set apart one tenth of all the specie paid into the treasury in discharge of the taxes on lands and unimproved lots subject to the direction of the general assembly hereafter, in such manner as will conduce most to the public interest, and a compliance with the public engagements for the redemption of the said money: *Provided always*, That nothing herein contained shall prevent the payment, into the treasury, of any of the said paper money, actually received by any sheriff or collector of public taxes, agreeable to the laws heretofore permitting the payment of one tenth of the tax on lands and unimproved lots, in the said money; but every sheriff or collector of public taxes, on payment of such proportion thereof, as hath been actually received agreeable to law, before the passing of this act, shall have credit for the same accordingly.

CHAP. XLVI.

An act for further continuing an act to revive and amend in part an act for giving further time to enter certificates for settlement rights, and for locating warrants on pre-emption-rights, and for other purposes.

[Passed December the 20th 1787]

I. WHEREAS the act of assembly passed in the year one thousand seven hundred and eighty four, intitled "An act to revive and amend in part an act for giving further time to enter certificates for settlement rights, and for locating warrants upon pre-emption rights, and for other purposes," which was continued by several subsequent acts, will expire on the last day of December, one thousand seven hundred and eighty seven, and it is expedient that the same should be further continued in part: *Be it therefore enacted by the General Assembly,* That the said recited act shall be continued in part until the thirty first day of December one thousand seven hundred and eighty eight; within which time the register of the land office or his deputy shall receive all plats and certificates of survey, although not returned within the time heretofore limited by law, and such lands shall not be considered as forfeited or liable to forfeiture on that account.

II. And whereas the time allowed by law for entering certificates for settlement rights, will expire on the last day of December one thousand seven hundred and eighty-seven, and it is judged expedient to continue the same, *Be it therefore enacted,* That it shall and may be lawful for the surveyors of this commonwealth within their respective counties at any time before the said thirty-first day of December in the year aforesaid to receive and enter all such certificates or the attested copies of such as shall be lost, and to proceed to survey the same as the law directs: *Provided,* such attestation be made by the commissioners who granted the same.

or by the clerk of the superior court of the district of Kentucky, or the register of the land office.

III. *And be it farther enacted*, That any person who hath obtained, or shall obtain a pre-emption warrant before the last day of December in the present year, shall be allowed until the last day of June one thousand seven hundred and eighty eight to enter the same with the surveyor of the county in which the land may lie; and all warrants so obtained, with the entry and survey thereupon, shall be good and valid in law, any act or acts to the contrary notwithstanding.

CHAP. XLVII.

An act concerning certain duties on tobacco.

[Passed the 1st of December, 1787]

I. WHEREAS by an act passed at the last session of assembly, intituled, "*An act to raise a supply of money for the United States in congress assembled*," it was amongst other things enacted, that from and after the tenth day of January, one thousand seven hundred and eighty seven, an additional duty of six shillings per hogshead on every hogshead of tobacco passed at and shipped from any public ware-house within this commonwealth should be paid to the inspectors, and it has been represented to this present general assembly that many inspectors received the said additional duty upon tobacco which had been inspected before the said tenth day of January one thousand seven hundred and eighty-seven, which was contrary to the intent of the said act and it is reasonable that the money so improperly collected should be refunded. *Be it therefore enacted by the general assembly*, That the auditor of public accounts upon an affidavit of any inspector or inspectors, or other satisfactory proof being produced to him that any person hath paid the said additional duty of six shillings per hogshead upon tobacco inspected before the said tenth day of January, one thousand

Acts concern-
ing duties on
tobacco ex-
plained and
amended.

seven hundred and eighty seven, shall grant to such person a warrant for the full amount of the duty so paid by him; which warrant shall be paid by the treasurer out of the funds arising from the duties on tobacco. *Provided nevertheless*, that where any inspectors have not paid the said additional duty into the treasury the same shall not be paid by the public, but the person to whom it shall appear to be due, shall and may recover the said duty of any such inspector or inspectors, by motion, in any court of record within this commonwealth, upon giving ten days previous notice thereof, together with the costs of such motion.

II. *And be it further enacted*, That if any inspector or inspectors shall grant a certificate or affidavit to any person or persons of his or their having paid such additional duty, where the same shall not actually have been paid, or for a greater sum than any such person or persons shall have paid, such inspector or inspectors shall, upon information and proof thereof being made to the executive, be displaced by them, and shall moreover forfeit and pay the sum of fifty pounds, to be recovered by action of debt or information in any court of record, one half of which shall be applied to the use of the informer, and the other half to the use of the commonwealth.

III. *And whereas* it is represented that many persons have twice paid the duties on the same hogshead of tobacco, as well at Rivanna and Lynch's inspection, as at the ware-houses below receiving such tobacco, which is contrary to law, *Be it therefore enacted*, That upon a similar proof of such duty being twice paid on the same hogshead of tobacco, as is herein before directed, the same shall be repaid to the person or persons, under the like restrictions as are prescribed with respect to the said six shillings per hogshead.

IV. *And whereas* the act, intituled, "An act to appoint commissioners to state and settle the losses sustained by the burning the ware-houses at Rockey Ridge," imposing a tax of three shillings per hogshead on tobacco, hath been misunderstood by many of the inspectors, and the said tax collected from the shippers of tobacco from the first day of May to the first day of October, one thousand seven hundred and eighty-six, contrary to the intent and meaning of the said act; *Be it therefore enacted*, That all persons having had so

improperly collected from them the said three shillings, shall be entitled to recover the same in the manner and under the same restrictions as are herein prescribed for persons who have been illegally charged with the six shillings on tobacco inspected before the tenth day of January last, any thing in any act to the contrary notwithstanding.

CHAP. XLVIII.

An act to amend the acts concerning the poor.

[Passed the 31st of December 1787.]

I. WHEREAS the laws heretofore made for providing for the poor have in some instances proved difficult and burthensome in their execution, and in others inadequate to the purpose; For remedy thereof, *Be it enacted by the general assembly,* That there shall not in future be more than four districts for electing overseers of the poor in any one county; and that in the several counties wherein there are at present more than four such districts, the courts of such counties respectively shall be, and they are hereby empowered and required at some one of their respective courts in the months of February, March, or April next, to cause their respective counties to be laid off into convenient districts not exceeding four, and shall order new elections to be made of overseers of the poor in such districts in the manner prescribed by the act, intituled, "An act to provide for the poor of the several counties within this commonwealth," which overseers of the poor so to be elected shall serve for and during the same term for which the former overseers of the poor in such counties had respectively been elected.

Districts, for electing overseers of the poor, limited.

II. *And be it further enacted,* That the overseers of the poor in every county, although in different districts, shall meet annually at some convenient place, to be appointed by a majority of them, on the first Monday in September, if fair, if not the next fair day.

Meeting of overseers.

Their duties.

The overseers of the poor of the different districts (if there be more than one in the county) shall bring with them to such annual meeting a distinct state of the number, names and situation of the poor, and an account of their expenditures in their respective districts, and a majority of the overseers of the poor in the county so meeting, and there being in such majority at least one overseer of the poor from each district, shall chuse a president, and shall be empowered to regulate the necessary provisions to be made for all the poor of the county (exclusive of the poor of any corporate town) for the succeeding year, as well as to adjust and settle the charges of supporting and maintaining the poor the preceding year, and to levy and assess upon all such taxables of their county as are subject to county levies, except the inhabitants of any corporate town, and settle the amount of the poor rate upon each such taxable in the same manner as the vestries used formerly to ascertain and assess the parish levy, either in tobacco or money at a certain price at the option of the payer: for which purpose the clerk of the county shall furnish the said overseers of the poor with a certified copy of the list of all such taxables in the county exclusive of those in any corporate town within the same, if any such there be.

**Collector of
poor rates
how appointed,
his power
and duty.**

III. And the said overseers of the poor shall also be, and they are hereby empowered and required, at their annual meeting to appoint a collector of such county poor rate, and to take from him bond with sufficient security, in a sum double the amount of the sum to be collected by him, payable to their president, for the use of the said overseers of the poor, to be applied towards lessening the county poor-rate, and conditioned for the faithful and diligent collection of the said poor-rate, and the payment to the several persons respectively entitled thereto of the sums of tobacco or money due to them according to the entries and accounts of the said overseers of the poor (a copy of which shall be delivered to such collector) and also for settling with the said overseers of the poor, or their successors, at their next annual meeting, a just and true account of all his receipts and disbursements with proper vouchers, and paying whatsoever balance shall, upon such settlement, appear to be in his hands; such collector shall be allowed the same commissions for receiving the said

poor-rate, as the sheriff is by law allowed for receiving county levies, shall be subject to the same rules and regulations, and shall have the same power of distress in case of non-payment of any person chargeable therewith, at the time the county levies are by law distrainable.

IV. It shall be lawful for such collector to appoint one or more deputies to assist him in the collection of the poor rate, for whose conduct he shall be answerable, which deputies shall have the same powers as the collector himself, and if such collector shall refuse or neglect to settle his account with the overseers of the poor, as herein before directed, or shall fail or refuse to pay them any money or tobacco which shall be in his hands, or in the hands of any of his deputies, or shall delay or refuse to pay off the several claims to the persons respectively entitled thereto, it may and shall be lawful for the court of the county wherein such collector was appointed, upon the motion of the overseers of the poor, or of any of the persons having legal claims, to grant judgment against such collector and his securities for the sums of money or tobacco respectively due to the said overseers of the poor, or to such legal claimants with costs: *Provided* such collector and his securities have ten days previous notice of such motion. And such collector shall have the same remedy and mode of recovery against his deputies, or either of them, and their securities respectively, for any sums of money or tobacco, which, by virtue of this act such collector may be subjected to the payment of, on account of the transactions of any of his deputies.

V. The overseers of the poor at their annual meeting, shall be and they are hereby empowered to settle the accounts of the former overseers and to receive from them any sums of money or tobacco which shall be in their hands, and to call upon the collector or collectors heretofore appointed by any vestry for a settlement of their accounts, and payment of any balances which shall be in their hands, and on failure of such payment they shall have the same mode of recovery, as is by this act directed for the recovery of money or tobacco in the hands of a collector of their own appointment.

VI. The said overseers of the poor shall also be and they are hereby empowered to levy, in the manner be-

Deputy collectors.

Liabilities.

Overseers to settle with their predecessors.

Power to pay parish debts.

fore directed, such sums of money or tobacco as shall be necessary to pay any arrears which may be due and unpaid by any parish or district to individuals.— And that where several counties shall compose one parish only, it shall be lawful for the overseers of the poor of each county to recover of the collector or wardens their proportion of any tobacco or money in their hands.

Proceedings, how entered. VII. All the proceedings and accounts of the overseers of the poor shall be regularly entered in a book, and shall be signed by the members present at each annual meeting, and for this purpose the said overseers of the poor of each county, or a majority of them, shall be and are hereby empowered to appoint a clerk, and at any time upon his misbehaviour or neglect of duty to remove him and appoint another in his stead, and to make such clerk an allowance, not exceeding the sum of five pounds annually, for his services.

Rules, in voting. VIII. At the said annual meeting each of the overseers of the poor in the county who are present shall have a vote, and if upon any such vote they be equally divided, the question shall be decided in favor of that side on which the president shall have voted.

Power of adjournment. IX. If on the first day of the before mentioned annual meeting there shall not appear a sufficient majority of the overseers of the poor for the county to proceed to business, any one or more of such as shall have attended, shall be and are hereby empowered to adjourn, from, day to day, until such a majority shall meet, who may afterwards adjourn from day to day until their business shall be finished.

Allowance to overseers. X. *And be it further enacted,* That the overseers of the poor shall, if they demand the same, be allowed the sum of six shillings each, to be charged in their account of other expenditures, for every day they shall attend the before mentioned annual meeting, and shall be subject to a penalty of the like sum for every day each of them respectively shall fail to attend the same, to be computed in both cases from the first day of such annual meeting during the continuance thereof, and their clerk shall in like manner be subject to the penalty of twelve shillings for every day he shall fail to attend such annual meeting, unless such overseers of the poor, or their clerk, respectively, shall be prevented from at-

tendance by sickness or other unavoidable accident; to be recovered with costs by warrant before any justice of the peace for the county.

XI. And any person being duly elected who shall refuse or neglect to serve as an overseer of the poor in the county of which he is an inhabitant unless disqualified by age or other infirmity (such disqualification to be judged of by the county court) shall forfeit and pay the sum of ten pounds to be recovered with costs by action of debt or information in any court of record within the commonwealth: *Provided* that no person shall be compelled to serve more than three years nor be subject to the penalty for refuse more than once in any term of nine years.

Penalty for refusing to serve.

XII. Upon the death, refusal, removal or disability of any overseer or overseers of the poor some other person or persons shall be elected in the stead of the person or persons so dying, refusing, removing, or disabled, to serve for the same time, such person or persons should otherwise have remained in office.

Vacancies, how supplied.

XIII. *And be it further enacted*, That the overseers of the poor, or any one of them, shall be and are hereby empowered upon discovering any vagrant or vagrants within their respective districts to make information thereof to any justice of the peace for the county, and to require a warrant for apprehending such vagrant or vagrants to be brought before him or some other justice of the peace for the county; and if upon due examination it shall appear to such justice that such person or persons are within the true description of a vagrant as herein after mentioned, such justice shall, by warrant under his hand, order such vagrant or vagrants to be delivered to some one of the overseers of the poor in the district, in which such vagrant or vagrants shall have been apprehended, to be employed in labor for any term not exceeding three months, and by the said overseer of the poor hired out for the best wages that can be procured to be applied to the use of the poor. And if any such vagrant or vagrants shall, during such term of service, run away from the person so employing or hiring him or them, he or they shall be dealt with in the same manner as other run away servants.

Vagrants, how dealt with.

XIV. *And be it further enacted*, That the corporations courts of the several corporate towns within this

Power of corporations to provide for poor.

commonwealth, shall be and they are hereby respectively empowered and required to provide for and maintain the poor within the limits of their respective towns, separately and distinctly from the poor of the county, and any two magistrates of any such corporation court shall be and are hereby empowered by warrant under their hands, to cause to be removed any poor person to the last place of his or her legal residence, who hath not been resident within the limits of such town for one year last past before such removal. And in like manner the overseers of the poor in the county, shall be and they are hereby empowered by warrant, under the hands of any two of them, to cause to be removed into any corporate town any poor person whose residence shall have been within the limits of such town for one year last past before such removal, except in both cases such poor persons only as have been lodged in any poor house at any time during the last two years, who shall be respectively returned to and maintained by the county or the town according to their former respective usual residence in either. The said corporation courts shall be and they are hereby respectively empowered, whenever they shall judge it necessary to provide or build a poor house and work house for the reception of their poor, and for the reformation of vagrants, and to employ a proper person or persons as stewards or managers thereof, subject to the direction and controul of such corporation court; and the said corporation courts shall be and they are hereby respectively empowered and required to levy and assess, annually, upon their respective towns, either by way of poll tax upon the inhabitants, or by a tax upon houses or other property within the limits of the town, as they shall judge best, all charges incurred for the support and maintenance of their poor, and also all the charges which may be incurred in providing or building a poor house and work house, and in the government and management of the same.

Right of voting.

XV. *And be it further enacted*, That the inhabitants of any such corporate town, not having a freehold estate in the county without the limits of the town, shall be disabled from voting in any election of the overseers of the poor in the respective counties, nor shall any inhabitant of any such corporate town be capable of serving as an overseer of the poor in any county.

XVI. *And be it further enacted,* That it shall and **Removal of**
may be lawful for any magistrate of any such corpo- **vagrants.**
ration-court, upon discovering any vagrant or vagrants
 within the limits of the town, to issue his warrant for
 apprehending such vagrant or vagrants for examina-
 tion, and if, upon such examination before two magis-
 trates of the corporation court, it shall appear that the
 person or persons so apprehended are within the true
 description of a vagrant, as herein after mentioned, the
 said two magistrates shall be, and they are hereby em-
 powered by warrant under their hands to commit such
 vagrant or vagrants to the work-house, there to be
 employed in labour for any term not exceeding three-
 months, and if there be no work house in such town,
 the said two magistrates may, and they are hereby em-
 powered to proceed with such vagrant or vagrants, in
 the same manner as the overseers of the poor in the
 counties are herein before directed to proceed, upon
 any vagrant or vagrants being delivered to them.

XVII. *And be it further enacted,* That any able **Who deemed**
 bodied man, who not having wherewithall to maintain **vagrants.**
 himself shall be found loitering, and shall have a wife
 or children without means for their subsistence, where-
 by they may become burthensome to their county or
 town, and any able bodied man without a wife or chil-
 dren, who, not having wherewithall to maintain him-
 self, shall wander abroad, or be found loitering without
 betaking himself to some honest employment, or shall
 go about begging, or shall not pay his legal taxes,
 shall be deemed and treated as a vagrant.

XVIII. All and every keeper or keepers, exhibiter
 or exhibitors, of either of the gaming-tables commonly **Keepers of**
 called A. B. C. or E. O. tables, or of a Pharoah bank, **A. B. C. or**
 or of any other gaming-table or bank of the same, **E. O. tables,**
 or the like kind, under any denomination whatever, shall **or Pharoah**
 be deemed and treated as vagrants. And moreover it **bank, treated**
 shall and may be lawful for any justice of the peace, **as vagrants.**
 or magistrate of any corporation-court, by warrant un-
 der his hand to order any such gaming-table to be sei-
 zed, and publicly burnt or destroyed.

XIX. All the forfeitures and penalties inflicted by
 this act, shall be, one half to the informer, and the
 other half to the use of the overseers of the poor for the
 county, to be by them applied towards the support and
 maintenance of such poor.

XX. *And be it further enacted*, That the clause respecting vagrants or idle persons not having wherewithall to maintain themselves in the act, intituled "An act concerning seamen," and so much of all the acts concerning the poor as is contrary to this act, shall be, and is hereby repealed.

CHAP. XLIX.

An act for establishing several new inspections of tobacco, and reviving and establishing others.

[Passed December 24th, 1787]

New inspections of tobacco established and others revived I. *BE it enacted by the General Assembly*, That the warehouses for the reception and inspection of tobacco shall be and the same are hereby established on the lands of Walter Beall, on Kentucky river near Harrod's landing in the county of Mercer, to be called and known by the name of Harrod's landing; on the lands of James Hogan, at the mouth of Hickman's creek, on the north side of Kentucky river in the county of Fayette, to be called and known by the name of Hogan's; on the lands of Walter Beall, at the mouth of Beachfork on Salt river in the county of Nelson, to be called and known by the name of Beall's; on the lands of general Charles Scott, near the mouth of Craig's creek on Kentucky river in the county of Fayette, to be called and known by the name of Scott's; in the town of Boonsborough on Kentucky river in the county of Madison, to be called and known by the name of Boon's; on the lands of John Collier on the Kentucky river, in the county of Madison, to be called and known by the name Collier's; on the lands of John May and Simon Canton on the lower side of Limestone creek in the county of Bourbon, to be called and known by the name of Limestone; on the lands of William Thornton Alexander, in the town of Alexandria, to be called and known by the name of Thoma-

ton's; and on the lands of Samuel Brown, on the south side of Nottoway river, in the county of Southampton, to be called and known by the name of Nottoway, and the proprietors of the said lands shall build the said warehouses at their own expence. There shall be allowed and paid annually to each of the inspectors at Harrod's landing warehouse, the sum of twenty-five pounds; to each of the inspectors at Hogan's warehouse, the sum of twenty-five pounds; to each of the inspectors at Beall's warehouse, the sum of twenty five pounds; to each of the inspectors at Boon's warehouse and Collier's warehouse, under one inspection, the sum of twenty five pounds; to each of the inspectors at Scott's warehouse, the sum of twenty five pounds; to each of the inspectors at Limestone warehouse, the sum of twenty five pounds; to each of the inspectors at Thornton's warehouse, the sum of fifty pounds; and to each of the inspectors at Nottoway warehouse, the sum of twenty pounds for their salaries. *Provided always and be it further enacted*, That if the quantity of tobacco inspected at any of the said warehouses hereby established or revived shall not be sufficient to pay the usual charges and inspectors salaries, the deficiency shall not be paid by the public.

II. *And be it further enacted*, That the inspection of tobacco at Meriwether's warehouses in the town of Newcastle; at Shepherd's in the county of King and Queen; at Boyd's Hole, and Machodack on Potowmack; at Bowler's, at Hampton, Portsmouth, Hood's, Rockett's, Rivanna, Suffolk, Urbanna, York, South Quay, Davis's and Lowry's, Yeocomico and Kinsale, Deacon's Neck, Littlepage's, Brick-House, College Landing, and at Poropotank, shall be, and the same is hereby revived and established, under the like rules, regulations, and allowance for inspectors salaries, as if the same had not been discontinued. *Provided*, That the warehouses hereby directed to be established on the lands of William Thornton Alexander, in the town of Alexandria, shall be built of stone or brick, and covered with slate or tile, with gates of iron. And that no tobacco shall be received for inspection at the said warehouses, nor any inspectors appointed for the same, until the court of Fairfax county shall be of opinion, and enter the same of record that the said warehouses are built according to the directions of this act.

III. And whereas it hath been represented to the general assembly, that the proprietor of the land whereon Byrd's warehouses lately stood, is willing to rebuild the same at his own expence, in such manner as will best secure the tobacco lodged therein from the danger of fire: *Be it therefore enacted*, That so soon as the proprietor of the said land shall, at his own expence rebuild the said warehouses of brick, with a cover of slate or tile, and make the gates of iron, that the inspection of tobacco at the said warehouses, shall thenceforth be revived and established in like manner as if they had not been burnt or discontinued; *Provided always*, That no tobacco shall be received for inspection at the said warehouses until the court of Henrico county shall be of opinion, and enter the same of record, that the proprietor hath built the said houses according to the directions of this act.

IV. *And be it further enacted*, that the inspectors at Shockey and Rockett's warehouses, are hereby authorised to call for the assistance of the third inspector, from time to time, when the quantity of tobacco shall be so great that they cannot inspect it with sufficient dispatch; who shall be paid for the time he shall so act, in like manner as a principal inspector.

V. *And be it further enacted*, that there shall be allowed and paid to each of the inspectors at Rivanna and Lynch's warehouses, the additional sum of ten pounds; and to each of the inspectors at Hampton, the additional sum of five pounds. *Provided always*, that if the quantity of tobacco inspected at the said warehouses shall not be sufficient to defray the expence of the said additional allowances, the same shall not be paid by the public.

VI. *And be it further enacted*, That so soon as Byrd's warehouses shall be rebuilt and fit for the reception of tobacco, the persons who were commissioned inspectors thereat when the former warehouses were burnt, shall be reinstated in their offices as inspectors, and from thenceforth their respective salaries shall commence and be receivable.

VII. Every person who now is or hereafter may be an inspector, shall be incapable of acting as a justice of the peace or sheriff, during his continuance in the office of inspector.

CHAP. L.

An act for opening and extending the navigation of Willis's river.

[Passed December 10, 1787.]

I. WHEREAS it is represented to this present general assembly, that the clearing, improving, and extending the navigation of Willis's river, in the county of Cumberland, to the highest part practicable, will be of public utility, and that many persons are willing to subscribe considerable sums of money for carrying the same into effect, *Be it therefore enacted*, that Joseph Carrington, Mayo Carrington, Benjamin Wilson, Alexander Trent, jun. and George Anderson, gentlemen, be, and they are hereby constituted and appointed trustees for clearing, improving, and extending, the navigation of the said river, as far up the same as the Fork-Plantation, in the said county of Cumberland, so as to have a sufficient depth and width of water to navigate boats, batteaus, or canoes, capable of carrying twelve hogsheads of tobacco. And they are hereby authorized to take and receive subscriptions for that purpose. If any person or persons shall neglect or refuse to pay the several sums of money by them respectively subscribed for the purposes of this act, it shall be lawful for the said trustees to recover the same, in the name of the trustees aforesaid, by warrant before a single magistrate, where the subscription shall not exceed twenty-five shillings, and where it shall exceed that sum, by motion in the court of the said county of Cumberland, on giving the party so neglecting or refusing, ten days previous notice of such motion. That the said trustees, or a majority of them, shall, as soon as may be, proceed to view the said river, and ascertain as nearly as they can, the highest part capable of navigation, agreeable to this act, and have power to contract and agree with any person or persons for clearing and improving the navigation of the river aforesaid, in such manner as to the trustees shall seem most proper, and to remove all obstructions which shall in any wise injure the said navigation.

Act for opening and extending navigation of Willis's river.

II. *And be it further enacted*, That the said trustees, or a majority of them, as often as they may see occasion, shall nominate and appoint one or more of their number, willing to undertake the same, to be receiver or receivers of all monies subscribed by virtue of this act, and the person or persons so appointed, shall, in the court of the said county give bond with sufficient security in a reasonable penalty, payable to the said trustees, and their successors, for the time being, with condition that he or they, his or their heirs, executors, or administrators, at all times when required, shall, and will truly and faithfully, account for all such sums of money, as shall come to the hands of the said receiver or receivers. for the purposes of this act, and pay the same to such person or persons as the said trustees, or a majority of them, shall order and direct.

III. And whereas it may be found necessary in some parts of the said river, to straighten the same by cutting away the banks, or by canals, *Be it therefore enacted*, that it shall and may be lawful for the said trustees, or a majority of them, to agree with the owners of any land, through which the said canals are intended to pass, for the purchase thereof, and in case of disagreement, or in case the owner thereof shall be a feme covert, under age, non-compos, or out of the state, the like proceedings shall be had to estimate the value thereof, by a jury, as are directed and prescribed, by the act intituled "An act for opening and extending the navigation of Potowmack river," and such valuation shall be paid by the said trustees to the owner of the land, or his legal representative, and on payment thereof, the said land shall thenceforth be vested in the said trustees, and their successors, in fee, for the purposes of this act.

IV. *And be it further enacted*, That the owners of mills on the said river, and every of them, shall, within eighteen months after the passing of this act, erect a sufficient lock or locks at each mill, for the passage of canoes, and batteaus, and thereafter keep the same in good repair; and if such owners, or any of them, shall neglect to erect such sufficient locks, within the said eighteen months, the mill or mills so as aforesaid deficient, are hereby declared nuisances, and shall and may be thrown down and destroyed; and in case any owner of a mill on the said river, shall fail to keep any

lock so erected, in good and sufficient repair, or shall fail to cause due attendance to be given thereat, for the reasonable dispatch of vessels navigating the said river, he or they so offending, shall forfeit and pay the sum of ten pounds for every such failure, to be recovered in the name of the said trustees by action of debt, or information in the court of the county where the owner or proprietor resides. So soon as the said river shall be so cleared, as to admit of any easy and safe navigation, the said trustees, or a majority of them, shall divide the same into as many districts as they may think convenient, which they shall lay before the court of the said county of Cumberland, who shall appoint one fit person to each district, to superintend the keeping the same open, and clear of all obstructions, with a sufficient number of hands for that purpose, not exceeding seven for every mile, and the person and hands so appointed shall be exempted from working on the public roads. Every person appointed shall at least once in every month between the months of October and May in every year, and also immediately after every fresh in the said river, happening between the months aforesaid, go through his district, and remove all obstructions which he may find therein, and in case of failure, shall forfeit and pay the sum of forty shillings for every neglect, to be recovered with costs, by action of debt, or information, in the court of the said county. If any person or persons shall fell a tree in the said river, or fix any hedge or stop, or place other obstructions therein, he or they so offending shall forfeit and pay the sum of five pounds, to be recovered with costs by action of debt, or information in the court of the said county.

V. All penalties and forfeitures imposed by this act, shall be, and enure to the use of the said trustees, to be by them applied towards keeping the river open, and improving the navigation thereof. In case of the death, resignation, or other legal disability, of any of the said trustees, it shall be lawful for the remaining trustees to supply the vacancy.

CHAP. LI.

An act to explain and amend the act for opening and extending the navigation of Willis's river.

[Passed December 24, 1787.]

Act for opening and extending navigation of Willis's river explained and amended.

I. WHEREAS it is judged expedient to explain and amend an act passed at the present session of general assembly intituled "An act for opening and extending the navigation of Willis's river." *Be it enacted*, that Willis Wilson, gentleman, be, and is hereby constituted and appointed a trustee for the purposes mentioned in the said recited act, in the room of Benjamin Wilson, gentleman, one of the trustees therein named, and who hath refused to act, and that Joshua Fry, and Edward Walton, gentlemen, be, and they are hereby constituted and appointed trustees for the purposes aforesaid, in addition to those already appointed, and the said trustees shall have power to clear, improve, and extend the navigation of the said river as far up the same as the Fork-Plantation, so as to have a sufficient depth, and width of water to navigate boats, batteaus, or canoes, capable of carrying four hogsheads of tobacco.

II. And be it further enacted, That the owners of mills on the said river, and every of them, shall, within eighteen months after passing this act, erect a sufficient lock or locks at each mill, for the passage of boats, batteaus, and canoes, and thereafter keep the same in good repair, and if such owners, or any of them, shall neglect to erect such sufficient locks, within the said time, the mill or mills so as aforesaid deficient, are hereby declared nuisances, and the said trustees shall be, and they are hereby authorised and empowered to throw down, and destroy the same, and the owner or owners of any mill or mills, on the said river, failing to keep any lock so erected in good and sufficient repair, and failing to cause the attendance to be given thereat for the reasonable dispatch of vessels navigating the said river, shall be subject to the penalties inflicted by the said recited act, to be recovered as

therein directed. The persons to be appointed pursuant to the said recited act, to superintend the keeping of the said river open and clear, of all obstructions, shall, and they are hereby required to go through their respective districts, between the first and tenth days of each of the months of January, February, March, April, May, October, November, and December, in every year, and also immediately after every fresh in the said river, happening in the said months, or any of them, and remove all obstructions which they may find therein, which may in any manner injure the said navigation: and in case of failure, shall be subject to the same penalties, to be recovered in the same manner as directed by the said recited act. And if the hands appointed in pursuance to the directions of the said recited act, for keeping the said river open, or any of them, shall fail to attend when called on by the said superintendant for the said purpose, he, or they, so failing, or if a slave or slaves, his or their respective masters or owners, shall forfeit and pay the sum of five shillings per hand for every day, he or they shall so fail, to be recovered with costs before a single magistrate, where the forfeitures shall not exceed twenty five shillings, and where they shall exceed that sum, by action of debt, or information, in the court of the said county.—In case of the death, resignation, or other legal disability to act, of any of the said trustees, it shall be lawful for the remaining trustees, or any four of them, to supply the vacancy by new appointments. So much of the said recited act, as is repugnant to, or comes within the purview of this act, shall be, and the same is hereby repealed.

CHAP. LII.

An act for further continuing the act intituled An act for the better regulating and collecting certain officers fees and for other purposes therein mentioned.

[Passed January 3, 1788.]

Act of 1745,
concerning
officers' fees
revived and
continued.

I. WHEREAS the act of assembly passed in the year one thousand seven hundred and forty five intituled *An act for the better regulating and collecting certain officers fees and other purposes therein mentioned*, which has been continued by several subsequent acts, will shortly expire, and it is expedient that the same should be further continued: *Be it therefore enacted by the General Assembly*, That the act intituled "*An act for the better regulating and collecting certain officers fees and other purposes therein mentioned*," shall be continued from and after the passing of this act, for and during the term of three years, and from thence to the end of the next session of assembly, except so much thereof as relates to the delivery, collecting, and recovery of the fees, formerly payable to the secretary and surveyors.

Surveyors'
fees, how col-
lected and ac-
counted for.

II. *And be it further enacted*, That the surveyor of every county within this commonwealth, may deliver or cause to be delivered to the sheriff of every county respectively, his account of fees now due, or hereafter to become due, from any person or persons residing therein, which account shall be signed by the surveyor. And the sheriffs are hereby required and empowered to receive such accounts, and to collect, levy, and receive the several quantities of tobacco therein charged, in money, at the rate prescribed by law, of the persons chargeable therewith. And if such person or persons, after the said fees shall be so demanded, shall refuse or delay until after the tenth day of April, in any year, to pay such of the said fees as shall have been put into the hands of the sheriff before the twentieth day of January preceding, the sheriff of that county wherein such person inhabits, or of the county in which such fees

become due, shall have full power and is hereby required to make distress of the slaves, or goods and chattels of the party so refusing or delaying payment, either in that county where such person inhabits, or where the said fees become due: but no action, suit, petition, or warrant from a justice, shall be had or maintained for surveyors fees, unless the sheriff shall return that the person owing or chargeable with such fees, hath not sufficient within his bailiwick whereon to make distress, except where such surveyor shall have lost his fee book by fire or other misfortune, so that he be hindered from putting his fees into the sheriffs hands to collect, and in that case any suit or warrant may be had and maintained for the recovery thereof. And if any sheriff shall be sued for any thing by him done in pursuance of this act, he may plead the general issue and give this act in evidence. The sheriff of every county, shall upon or before the last day of May, in every year, account with the respective surveyors for all fees put into his hands before the twentieth day of January preceding, pursuant to this act, and pay the same, abating six per centum for collecting. And if any sheriff shall refuse to account or pay the whole account of fees, put into his hands, after the deductions aforesaid are made, together with an allowance of what is charged to persons not dwelling or having no visible estate in his county, it shall and may be lawful for the surveyor, upon motion made in the general court or in the supreme court of the district of Kentucky, as the case may be, or in the court of the county, of such sheriff to demand judgment against such sheriff for all fees wherewith he shall be chargeable by virtue of this act; and such court is hereby authorized and required to give judgment accordingly, and to award execution thereupon, provided the sheriff have ten days notice of such motion.

III. *And be it further enacted*, That it shall not be lawful for any county surveyor hereafter, to withhold from any person intitled to demand the same, a plat by him demanded, and that every surveyor out of office shall have the same remedy for fees due to him, as is hereby given to the acting surveyors. *Provided*, That no surveyor shall be obliged to deliver a plat of land to any person or persons not resident within this state, before the fees for the same shall be paid, or such

When surveyors may withhold plats.

Fees of commissioners of tax, how collected.

When clerks to deliver their tickets to sheriffs.

Production of surveyors' books how compelled.

security given for the payment thereof as to him shall be deemed sufficient. The commissioners of the tax in the respective counties shall be in like manner empowered to put their tickets of fees into the hands of the respective sheriffs, to be collected in like manner, and subject to the same restrictions and recovery as is herein before provided in the case of surveyors.

IV. *And be it further enacted*, That from and after the passing of this act, the clerks of the several county and corporation courts within this commonwealth, shall deliver their tickets to the respective sheriffs annually, before the first day of March, instead of the time directed by the said first recited act, and that the fourth and fifth sections of the said act which respects the fees of the clerk of the superior courts, shall also be revived and continued, and be in force for and during the term of three years, and from thence to the end of the next session of assembly.

V. And whereas by an act of assembly intituled "An act for establishing a land office and ascertaining the terms and manner of granting waste and unappropriated lands," it is directed that every county court shall once in every year, and oftener if they see cause, appoint two or more capable persons to examine the books of entries and surveys in possession of their chief surveyor, and to report in what condition and order the same are kept; and on his death or removal, shall have power to take the same into their possession, and deliver them to the succeeding chiefsurveyor: and there is no means provided to compel any surveyor or other person in whose possession such books may be, to produce or deliver up such books, *Be it therefore further enacted*, that if any surveyor or other person who may be in possession of any such book of entries or surveys, shall refuse or neglect to produce such book to the persons who by any court may be appointed to examine the same, or to deliver up the same agreeable to the order of such court to any chief surveyor who has succeeded or may succeed any surveyor dead, or removed from office, such surveyor or other person, shall for every such refusal or neglect, forfeit and pay the sum of ten pounds, one half to the use of the county, and the other half to the use of the person suing for the same, to be recovered by action of debt, plaint, or information.

CHAP. LIII.

An act for opening and extending the navigation of Appamattox river.

[Passed December 17, 1787.]

1. WHEREAS it is represented to this present general assembly, that the clearing, improving, and extending the navigation of Appamattox river, to the highest part practicable, will be of great benefit and public utility, and that many persons are willing to subscribe considerable sums of money for carrying the same into effect. *Be it therefore enacted*, that John Pride, John Holcombe, Joseph Michaux, John Archer, Joseph Jones, Everard Meade, and Richard Crump, gentlemen, be and they are hereby constituted and appointed trustees for clearing, improving, and extending the navigation of the said river, from Banister's mill as far up the same as they may judge it practicable, so as to have a sufficient depth and width of water to navigate boats, batteaus, or canoes, capable of carrying six hogsheads of tobacco, and they are authorised to take and receive subscriptions for that purpose: If any person shall neglect or refuse to pay the money by him subscribed for the purposes of this act, it shall be lawful for the said trustees to recover the same by warrant before a single magistrate where the subscription shall not exceed twenty five shillings, and where it shall exceed that sum, by motion in the court of the county where the person resides, provided the party has ten days previous notice of such motion. The said trustees or a majority of them, shall, as soon as may be, proceed to view the said river, and ascertain as nearly as they can, the highest part capable of navigation, according to this act; and have power to contract and agree with any person or persons for clearing and improving the navigation of the said river, in such manner as the trustees shall judge proper, and to remove all obstructions which in any wise injure the said navigation.

Act for opening and extending navigation of Appamattox river.

II. *And be it further enacted*, That the said trustees, or a majority of them, as often as they may see occasion, shall nominate and appoint one or more of their number to be receiver or receivers of all monies subscribed by virtue of this act; and the person or persons so appointed shall, in the court of the county where they respectively reside, give bond with sufficient security, in a reasonable penalty, payable to the said trustees and their successors, for the time being; with condition that he or they, his or their heirs, executors, or administrators, at all times when required, will truly, and faithfully account for all such sums of money as shall come to the hands of the said receiver or receivers, for the purposes of this act, and pay the same to such person or persons as the said trustees or a majority of them shall order and direct.

III. And whereas it may be found necessary in some parts of the said river, to straighten the same, by cutting away the bank or by a canal, *Be it therefore enacted*, That it shall and may be lawful for the said trustees, or a majority of them, to agree with the owners of any land through which the said canal is intended to pass, for the purchase thereof, and in case of disagreement, or in case the owner thereof shall be a feme covert, under age, non-compos, or out of the state, the like proceedings shall be had to estimate the value thereof by a jury, as are directed and prescribed by the act intituled "An act for opening and extending the navigation of Potowmack river," and such valuation shall be paid by the said trustees to the owner of the said land, or his legal representative, and on payment thereof, the said land shall thenceforth be vested in the said trustees, and their successors in fee, for the purposes of this act. The said trustees and their successors, or a majority of them, shall have power and authority to agree with any person or persons, to cut such canals, and erect such locks, and to perform such other works, as they may think necessary for opening, improving, and extending the navigation of the said river, and out of the money arising from the subscriptions, and tolls hereafter given to pay for the same, and to repair and keep in order the said canals, locks, and other works necessary thereto, and to defray all incidental charges, and to appoint such toll gatherers, managers, and servants, as they shall judge

requisite, and to agree for, and settle their respective wages, or allowances, and settle and pass their accounts, and to make and establish such rules of proceeding, and to transact all the other business and concerns for the purpose of carrying this act into execution.

IV. *And be it further enacted*, That for, and in consideration of the expence the subscribers will be at, not only in cutting canals, erecting locks, or other work and labour for opening, improving, and extending the navigation of the said river, but in maintaining and keeping the same in repair, the said canals and works with all their profits, shall be, and the same are hereby vested in the said trustees, and their successors forever, to; and for the use of the subscribers and their heirs, as tenants in common, to be apportioned among them, according to the sums by them respectively subscribed and paid, and the same shall be deemed real estate, and be forever exempt from payment of any tax, imposition, or assessment whatsoever, and it shall and may be lawful for the said trustees, and their successors at all times hereafter to demand and receive at such place or places upon the said river as they may think most convenient, for all commodities transported through either of them respectively, tolls not exceeding those imposed by the said recited act: and in case any person shall refuse or neglect to pay the tolls at the time of offering to pass through any of the said places, and previous to the vessels passing through the same, be collectors of the said tolls, may lawfully refuse passage to such vessels, and if any vessel shall pass without paying the said toll, then the said collectors may seize such vessel wherever found, and sell the same at auction for ready money, which, so far as is necessary, shall be applied towards paying the said tolls, and all expences of seizure and sale, and the balance if any, shall be paid to the owner, and the person having the direction of such vessel, shall be liable for such toll, if the same is not paid by sale of such vessel as aforesaid.

V. *And be it enacted*, That it shall and may be lawful for every subscriber to transfer his interest in the said canals, or works, in the same manner and under the like conditions and exceptions as are prescribed by the said recited acts. The owners of mills on the said river above Banister's mill, and every of them, shall

within eighteen months after passing this act, erect good and sufficient locks through their dams, or on canals convenient and proper around them, so as to procure an easy, safe, and expeditious passage for loaded canoes, boats, and batteaus, both up and down the said river, through or around each and every of the said dams; and moreover the said owners of mills on the said river, shall keep the said locks in good and sufficient repair, and cause to be given constant attendance at the same, by some person or persons whose duty it shall be, to work and manage the said locks at all times when thereto required by any person for the purpose of passing through the same with craft as aforesaid, without delay, giving them free passage, and on failure so to do, the offender shall forfeit and pay the sum of five pounds for every time such failure shall happen, and be moreover liable to the party grieved for damages, which said penalty may be recovered in the court of the county where the offender resides, by motion on ten days previous notice, by any person who will inform or sue for the same.

VI. *And be it enacted*, That if any owner or owners of mills on the said river shall refuse or fail to build such good and sufficient locks, for passing through, or around his or their mill-dam, or mill dams as aforesaid, for the purposes of this act, within eighteen months as aforesaid, then and in that case, the mill-dam or mill-dams, not having such locks, are hereby declared to be nuisances, and shall and may be abated, and thrown down, and destroyed. And the trustees aforesaid. or a majority of them, are hereby empowered and directed to cause the said dams to be cleared away, and to present an account of the reasonable expence thereof, to the owners of the same, which expences he or they shall pay, or on failure the amount thereof may be recovered against him or them by the said trustees, on motion to the court of the county, giving him or them ten days previous notice thereof.

VII. *And be it further enacted*, That if any landholder on the said river, shall suffer any tree to be felled from his land into the same, and therein to remain the space of twenty four hours, at any time after the navigation of the same hath become practicable, every such landholder shall forfeit and pay the sum of forty shillings to any person who will inform or sue for the

same in any court of record. The said trustees, and their successors, are hereby declared to be incorporated, by the name of the Appamattox trustees, and may sue and be sued as such. In case of vacancy by death, refusal to act, resignation, or other legal disability, of any one or more of the said trustees, it shall be lawful for the remaining trustees or a majority of them, to elect others in their stead. *Provided nevertheless*, That the said trustees shall be compelled to begin this work as near to Banister's mill as circumstances will admit. So much of all and every act, and acts, as comes within the meaning of this act, is hereby repealed.

CHAP. LIV.

An act to establish a town in the county of Hampshire.

[Passed December 5th, 1787]

I. *BE it enacted by the General Assembly*, That one hundred and thirty nine acres of land, in the county of Hampshire, the property of John Sellers, and laid off by him into in and out lots, with convenient streets, shall be and the same is hereby established a town by the name of Frankford, and that John Mitchell, Andrew Cowper, Ralph Humphries, John Williams, sen. James Clark, Richard Stafford, Hezekiah Whiteman, and Jacob Brookhart, gentlemen, be trustees thereof, who, or the major part of them, shall have power, from time to time, to settle and determine all disputes concerning the bounds of the said lots, and to establish such rules and regulations for the regular building of houses thereon, as to them shall seem best. In case of the death, resignation, removal out of the county, or other legal disability of any one or more of the said trustees, it shall be lawful for the remaining trustees to supply such vacancy, and the person so chosen, shall have the same power as if they had been particularly named in this act.

Town of
Frankford, in
Hampshire
established.

II. *And be it further enacted*, That so many of the lots in the said town as are not sold by the said John

Sellers, are hereby vested in the said trustees, and they, or a majority of them, shall within six months after the passing of this act, sell the said lots at public auction, having previously advertised the time and place of such sale at the courthouse of the said county, on three successive court-days, and convey the same to the purchaser in fee, subject to the condition of building a house on each, sixteen feet square, with a brick or stone chimney, to be finished fit for habitation within three years from the day of sale, and pay the money arising from such sale to the said John Sellers, or his legal representatives. So soon as the purchasers of the said lots shall have built thereon according to their respective deeds of conveyance, they shall then be entitled to, and have and enjoy all the rights, privileges, and immunities, which the freeholders and inhabitants of other towns in this state not incorporated, hold and enjoy. If the purchaser of any lot sold by the said trustees shall fail to build thereon within the time before limited, it shall be lawful for the said trustees, or a majority of them, to enter into such lot, and sell the same again, and apply the money for the benefit of the inhabitants of the said town.

CHAP. LV.

An act for adding part of the county of Brunswick, to the county of Greenville.

[Passed November 6, 1787.]

Part of
Brunswick
county added
to Greens-
ville.

1. *BE it enacted by the General Assembly*, That all that part of the county of Brunswick, lying to the eastward of a line to begin on the Carolina-line, six miles above the termination of the boundary between the said county and Greenville, and running from thence a direct course to where the line between the said counties crosses the river Meherrin, be added to, and made a part of the said county of Greenville. It shall be lawful for the sheriff or collector of the said county

of Brunswick, to collect and make distress for any public dues, or officers fees, which shall remain unpaid by the inhabitants thereof, at the time of passing this act, and shall be accountable for the same in like manner as if this act had not been made.

CHAP. LVI.

An act for adding part of the county of Hardy, to the county of Hampshire.

[Passed December 4, 1787.]

I. *BE it enacted by the General Assembly, That* all that part of the county of Hardy lying north of a line to be run from the mouth of Stoney river, to the High Knob, shall be, and the same is hereby added to, and made part of the county of Hampshire. *Provided always,* that nothing herein contained, shall be construed to hinder the sheriff, or collector, of the said county of Hardy, from collecting and making distress for any dues, or officers fees, remaining unpaid by the inhabitants of that part of the said county added to Hampshire, but he shall collect and account for the same in like manner, as if this act had not been made.

Part of Hardy county added to Hampshire.

CHAP. LVII.

An act to amend the act intituled An act for establishing a town on the lands of James Wilkinson in Fayette county, and a ferry across Kentucky river.

[Passed November 27, 1787.]

I. *WHEREAS* by an act of the last session of assembly intituled "An act for establishing a town on the lands of James Wilkinson in Fayette county, and

Further time allowed for selling lots in town of Frankfort, in Kentucky.

a ferry across Kentucky river," the trustees of the said town were directed to sell the lots within six months after the passing of the said act, and it is represented to the present assembly that the time elapsed before the trustees could proceed to the sale of any of the said lots, for remedy whereof, *Be it enacted*, that the further time of three years from and after the passing of this act, shall be allowed the said trustees to sell the lots in the said town, any law to the contrary notwithstanding.

CHAP. LVIII.

An act concerning the personal estate of Nicholas Gentry, deceased.

[Passed December 13, 1787.]

Personal estate of Nicholas Gentry, a *felo de se* vested in his widow and children.

I. WHEREAS Nicholas Gentry, hath lately become *felo-de-se*, whereby his goods and chattels are subject to escheat and forfeiture, and application hath been made to this assembly, to vest the same in his widow and children, which it is judged expedient to do, under certain conditions.

II. *Be it therefore enacted*, That the person obtaining administration on the estate of the said Nicholas Gentry, deceased, shall hold his goods and chattels subject in the first place, to the payment of his just debts, and the residue thereof to the use, and for the benefit of the widow of the said Nicholas Gentry, and his children equally.

CHAP. LIX.

An act to establish a town at the court house in the county of Ohio.

Town of West Liberty at Ohio court house, established.

[Passed November 29, 1787.]

I. *Be it enacted by the General Assembly*, That sixty acres of land the property of Reubin Foreman, and

Providence Mounts, already laid off into lots, and streets, around the courthouse in the county of Ohio, shall be, and the same are hereby established a town by the name of West Liberty, and that Moses Chaplaine, Zachariah Sprigg, George M'Culloch, Charles Wills, Van Swearingan, James Mitchell, and Benjamin Briggs, gentlemen, be trustees thereof, who, or a majority of them, shall have power and authority, from time to time, to settle and determine all disputes concerning the bounds of the said lots, and to establish such rules and regulations for the building of houses thereon, as to them shall seem most convenient. And in case of the death, removal out of the county, or other legal disability, of any one, or more of the said trustees, it shall be lawful for the remaining trustees to supply the vacancy, and the persons so chosen shall be vested with the same powers as if they had been named in this act.

II. *And be it further enacted*, That the lots in the said town remaining unsold by the said Reuben Foreman, and Providence Mounts, are hereby vested in the said trustees, and they, or a majority of them shall, within six months after the passing of this act, sell the same at public auction, having previously advertised the time and place of such sale, at the door of the courthouse of the said county of Ohio, on two successive court-days, and convey the lots to the purchasers in fee, subject to the condition of building a house on each, eighteen feet square, with a brick or stone chimney, to be finished within three years from the day of sale, and pay the money arising from such sale to the said Foreman and Mounts, or their representatives.—If the purchaser of any lot in the said town, shall fail to build thereon, within the time before limited, the said trustees or a major part of them, may thereupon enter into such lot, and sell the same again, and apply the money for the benefit of the inhabitants of the said town.

LAWS OF VIRGINIA,

CHAP. LX.

An act appointing trustees for the town of Leesburg in the county of Loudon.

[Passed November 20, 1787.]

tees of
ing ap-
d. I. BE it enacted by the General Assembly, That John Hough, Israel Thompson, James M'Ilheny, Joshua Daniel, John Littlejohn, Patrick Cavan, and Samuel Murray, gentlemen, are hereby constituted trustees of the town of Leesburg, in the county of Loudon, and they, or a majority of them, are empowered to settle and determine all disputes concerning the bounds of the lots in the said town, and to establish such rules and orders, for the regular building of houses thereon, as they may judge most proper. In case of the death, removal out of the county, or other legal disability, of any of the said trustees, the vacancy thereby occasioned, shall be supplied by the remaining trustees, and the person or persons so-elected, be vested with the same powers as any one in this act particularly named.

CHAP. LXI.

An act to enlarge the town of Staunton in the county of Augusta.

[Passed November 6, 1787.]

rn of
on en- I. BE it enacted by the General Assembly, That twenty-five acres of land the property of Alexander St. Clair, gentleman, laid off into lots and streets, adjoining the town of Staunton, shall be, and the same are hereby added to, and made part of the said town.

CHAP. LXII.

An act to vest the right of this commonwealth to a lot of land in the town of Staunton, in Thomas Poage and his heirs.

[Passed December 20, 1787.]

I. WHEREAS it hath been represented to the present general assembly that a certain John Harmon, purchased of William Beverly, esquire, in the year one thousand seven hundred and fifty four, a lot of land in the town of Staunton, distinguished by the number six, and that the said John Harmon, having soon after left the country, a certain Robert Brotton, who was his security for the payment of the purchase money, was compelled to pay the same, and to indemnify himself took possession of the said lot, and has since conveyed the same for a valuable consideration to Thomas Poage.

Right of commonwealth to a lot of land in Staunton vested in Thomas Poage.

II. And whereas it hath been suggested that the said lot of land has become escheatable to the commonwealth, and it is just and right that the same should be vested in the said Thomas Poage, *Be it therefore enacted by the General Assembly,* That all the right, title, and interest of this commonwealth, in and to the said lot of land in the town of Staunton, distinguished by the number, six, shall be, and the same is hereby vested in the said Thomas Poage, and his heirs forever. Saving to all persons, bodies politic and corporate, other than this commonwealth, their rights, legal, and equitable, in and to the said lot of land.

CHAP. LXIII.

An act to establish a town in the county of Mercer.

[Passed December the 4th, 1787]

I. WHEREAS Walker Daniel, in his life-time, laid off part of seventy six acres of his land, in the county

Town of Danville, in Mercer county Kentucky established.

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of Mercer, into lots and streets, and sold and conveyed them to the purchasers; and Robert Daniel his brother, to whom his lands descended, hath since the death of the said Walker Daniel, laid off the residue of the said seventy six acres into lots, and sold and conveyed them to the purchasers; and did moreover convey the springs within the said town, to certain persons and their successors, in trust, for the use of those persons who should reside on the said lots, and also conveyed a square of ground to other persons, in trust, for the special purpose of erecting thereon the public buildings of the district. And application being made to the present general assembly, to establish the lots and streets so laid off, into a town, and confirm the said two deeds of conveyance.

II. *Be it therefore enacted*, That the lots and streets so as aforesaid laid off, shall be, and they are hereby established a town, by the name of Danville, and that John Jouit, William M'Dowell, Harry Innes, Christopher Greenup, Samuel M'Dowell, sen. Abraham Irvin, sen. George Muter, and William Kennedy, gentlemen, be trustees thereof, who, or the major part of them, shall have power from time to time, to settle and determine all disputes concerning the bounds of the said lots, and to establish such rules for the regular building of houses thereon, as to them shall seem best. In case of the death, removal out of the county, or other legal disability of any one or more of the said trustees, it shall be lawful for the remaining trustees to supply such vacancy; and the persons so chosen shall have the same power and authority as any one particularly appointed by this act. So soon as the purchasers of lots in the said town shall have respectively built thereon a house sixteen feet square, with a brick or stone chimney, they shall be entitled to, and have and enjoy all the rights, privileges, and immunities, which the freeholders and inhabitants of other towns not incorporated, hold and enjoy.

III. *And be it further enacted*, That the deeds conveying the springs and square of ground within the said town as aforesaid, shall be, and they are hereby declared to be good and valid, for the uses and purposes therein expressed.

CHAP. LXIV.

*An act to explain and amend the act
For establishing the town of Boone's
Borough in the county of Ken-
tucky.*

[Passed December 29, 1787.]

I. WHEREAS it hath been represented to this present general assembly that the trustees formerly appointed for the town of Boones'borough in the county of Madison, formerly Kentucky, have refused to act, *Be it therefore enacted*, that Thomas Kennedy, Aaron Lewis, Robert Rhodes, Green Clay, Archibald Woods, Benjamin Bedford, John Sappington, William Irvine, David Crews, and Higgerson Grubbs, gentlemen, shall be, and they are hereby appointed trustees of the said town of Boones'borough, in the room of those heretofore appointed.

Act establish-
ing town of
Boones'bo-
rough, in
Kentucky,
explained.

II. And whereas doubts have arisen concerning the quantity of land vested in the trustees of the town aforesaid, *Be it enacted* that six hundred and forty acres of land, shall be, and the same are hereby vested in the trustees aforesaid, and their successors: seventy acres of which for the purpose of lots, and streets, and the remainder for a common, to be laid off, and appropriated in the same manner, and subject to the like orders and regulations that the act directs, establishing the town of Boones'borough.

 CHAP. LXV.

*An act to establish a town on the land
of Cuthbert Bullitt, in the county
of Prince William.*

[Passed November 6, 1787.]

I. *Be it enacted by the General Assembly*, That thirty acres of land lying at the mouth of Quantico creek, and on Potowmack river in the county of Prince

Town of
Newport, in
Prince Wil-
liam estab-
lished.

William, the property of Cuthbert Bullitt, so soon as he shall lay off the same into lots of half an acre each, with convenient streets, be established a town, and called and known by the name of Newport; that Thomas Blackburne, Alexander Henderson, William Grayson, Thomas Montgomery, William Tebbs, Burr Harrison, Jesse Ewell, John M'Millian, and Ludwell Lee, gentlemen are hereby appointed trustees of the said town, who, or a majority of them, shall, from time to time, settle and determine all disputes concerning the bounds of the lots, and have power to establish such rules and orders, for the regular building of houses thereon, as to them shall seem best, and most convenient. In case of the death, removal out of the county, or other legal disability, of any one, or more of the said trustees, it shall be lawful for the remaining trustees, to elect others in their stead, who shall be vested with the same power and authority, as any one in this act particularly appointed.

II. *And be it further enacted*, That so soon as the purchasers of lots in the said town shall have built thereon a dwelling house twenty by sixteen feet, with a brick or stone chimney, such purchasers shall be entitled to, and have and enjoy, all the rights, privileges, and immunities, which the freeholders and inhabitants of other towns in this state, not incorporated, hold and enjoy.

• CHAP. LXVI.

An act to amend the act for appointing trustees to regulate the making of slopes for the passage of fish in the mill-dams within the county of Bedford.

[Passed December 4, 1787.]

Act appointing trustees to regulate the making of slopes, for

I. WHEREAS by a division of the county of Bedford, since the passing of the act intituled "An act for appointing trustees to regulate the making of slopes for the passage of fish, in the mill dams, within the coun-

ty of Bedford," the same cannot be carried into effect in the county of Campbell: For remedy whereof,

passage of
fish in county
of Bedford
extended to
county of
Campbell.

II. *Be it enacted by the general assembly, That* Richard Stith, Thomas Moore, sen. Charles Cobbs, Thomas Jones jun. John Morris, Thomas Marshall, and Plummer Thurston, gentlemen, shall be, and they are hereby constituted trustees, and they, or a majority of them, are authorized and empowered to carry the said act into execution within the said county of Campbell, in as full and ample a manner as the trustees named in the said act could or might do in the said county of Bedford.

CHAP. LXVII.

An act for establishing a town on the lands of Levin Powell, in the county of Loudon.

[Passed November 2, 1787]

I. *BE it enacted by the General Assembly, That* fifty acres of land lying in the county of Loudon, the property of Levin Powell, so soon as he shall lay off the same into lots of half an acre each, with convenient streets, be established a town by the name of Middleburg; and Francis Peyton, William Bronaugh, William Heale, John Peyton Harrison, Burr Powell, Josias Clapham, and Richard Bland Lee, gentlemen, are hereby appointed trustees thereof, who, or a majority of them, are authorized to make such rules and orders for the regular building therein, as to them shall seem best, and most convenient. The said trustees, or a majority of them, shall have power from time to time to settle and determine all disputes concerning the bounds of the lots, and in case of the death, resignation, or removal out of the county, of any one or more of the said trustees, it shall be lawful for the remaining trustees to elect others in their stead, who shall be vested to all intents and purposes with the same power, as any other in this act particularly appointed.

Town of Middleburg, in Loudon county established.

II. *And be it further enacted*, That as soon as the purchasers or owners of lots within the said town, shall have built thereon a dwelling house sixteen feet square, with a brick or stone chimney, they shall respectively be entitled to, and have and enjoy all the rights, privileges, and immunities, which the freeholders and inhabitants of other towns in this state, not incorporated, hold and enjoy.

CHAP. LXVIII.

An act altering the court-day of the county of Charles city.

[Passed December 4, 1787.]

Court day of
Charles City
county altered.

I. *BE it enacted by the General Assembly*, That from and after the first day of February next, a court for the county of Charles city, shall be held on the third Thursday in every month, any law to the contrary notwithstanding.

CHAP. LXIX.

An act for altering the court-day of the county of Halifax.

[Passed November 20, 1787.]

Court day of
Halifax county altered.

I. *BE it enacted by the General Assembly*, That from and after the first day of February next, a court for the county of Halifax, shall be held on the fourth Monday in every month, any law to the contrary thereof notwithstanding.

CHAP. LXX.

An act to establish a town on the lands of David Gerrard, in the county of Berkeley.

[Passed November 22, 1787.]

1. WHEREAS it hath been represented to the present general assembly, that David Gerrard hath laid off one hundred lots with convenient streets in the county of Berkeley, and hath made application that the same may be established a town. *Be it therefore enacted,* That the said one hundred lots and streets so laid off by the said David Gerrard, shall be established a town by the name of Middletown; that William Hanskaw, James Hair, John Gray, Gilbert M'Kown, and Robert Allen, gentlemen, are hereby constituted trustees thereof, and they, or the major part of them, are authorized to make such rules and orders for the regular building therein, as to them shall seem best and most convenient, and have full power to settle and determine from time to time, all disputes concerning the bounds of the said lots. In case of the death, resignation, or removal out of the county of any one or more of the said trustees, such vacancy shall be supplied by the remaining trustees, and the person or persons so chosen shall be vested with the same power and authority as any one in this act particularly named.

II. *And be it further enacted,* That so soon as the purchasers or owners of lots in the said town shall have built thereon a dwelling house sixteen feet square, with a brick or stone chimney, such purchasers or owners shall be entitled to, and have and enjoy all the rights, privileges and immunities, which the freeholders and inhabitants of other towns in this state not incorporated hold and enjoy.

CHAP. LXXI.

An act to establish a town on the lands of Ignatius Mitchell, in the county of Bourbon.

[Passed November 20, 1787.]

Town of
Charlestown,
in Bourbon
county, Ken-
tucky, es-
tablished,

1. *BE it enacted by the General Assembly, That* eighty acres of land at the mouth of Lawrence's creek, on the river Ohio, the property of Ignatius Mitchell, shall be, and the same are hereby vested in John Grant, Charles Smith, jun. Thomas Warren, Miles Withers Conway, Henry Lee, John Machir, and Robert Rankin, gentlemen, trustees to be by them, or any four of them, laid out into lots of half an acre each, with convenient streets, and shall be established a town by the name of Charlestown. So soon as the said eighty acres of land shall be laid off into lots and streets, the said trustees or the major part of them, shall proceed to sell the lots at public auction for the best price that can be had, the time and place of which sale shall be previously advertised for two months, at the door of the courthouse of the county of Bourbon. The purchasers of the said lots respectively, shall hold the same, subject to the condition of building on each, a dwelling house sixteen feet square at the least, with a brick or stone chimney, to be finished fit for habitation, within three years from the day of sale. The said trustees or the major part of them, shall convey the said lots to the purchasers in fee, subject to the condition aforesaid, and shall pay the money arising from the sale thereof, to the said Ignatius Mitchell, or his legal representatives. The said trustees, or a majority of them, shall have power from time to time, to settle and determine all disputes concerning the bounds of the said lots, and to make such regulations for the regular building of houses thereon, as to them shall seem most proper. In case of the death, removal out of the county, or other disability of any of the said trustees, it shall be lawful for the others to supply such vacancy; and the persons so chosen shall have the same powers as if they had been named in this act. The purchasers of the lots when they shall have built upon them accord-

ing to the conditions of their deeds, shall have the same rights, privileges, and immunities, that the inhabitants of the other towns not incorporated hold and enjoy. If the purchaser of any lot shall fail to build thereon according to the condition of his deed, the said trustees or a major part of them, may thereupon enter into such lot, and sell the same again, and apply the money arising therefrom, in any manner for the benefit of the said town.

CHAP. LXXII.

*An act to amend the charter of the
borough of Norfolk.*

[Passed December 7, 1787.]

I. WHEREAS the mode of electing common-councilmen for the borough of Norfolk, as fixed by the charter, is judged impolitic, and unconstitutional, *Be it therefore enacted by the general assembly*, that on the twenty fourth day of June next, or if that shall happen on a Sunday, then the day following, all and every of the common-councilmen of the said borough of Norfolk, shall be displaced, and that on the same day, the freeholders and inhabitants within the said borough, qualified by law to vote for a delegate to represent the said borough, and also on the same day, of the said month, in every third year thereafter, shall meet at the place where the court of the said borough hath been, or shall be usually held, and then and there elect sixteen fit and able men, being freeholders and inhabitants of the said borough, to serve as common-councilmen within the same for three years; of which election, ten days previous notice shall be given by the mayor, recorder, or senior alderman, for the time being, who shall preside at, and be the judge of the qualifications of the voters at such elections. A majority of the common-councilmen so chosen, shall be a sufficient number to proceed to business, and they shall before they enter on the execution of their office, take the oath

Charter of
borough of
Norfolk a-
mended.

(or affirmation) of fidelity to the commonwealth, and moreover take the following oath, or affirmation: "I — do solemnly swear (or affirm as the case may be) that I will faithfully, impartially, and justly, perform the duty of my office, as common-council-man of the borough of Norfolk, according to the best of my skill and judgment. So help me God." Which oath or affirmation, the mayor, recorder, or either of the aldermen, are hereby authorised to administer and grant a certificate of the same to the person or persons so qualified, which certificate shall be lodged with the clerk of the borough of Norfolk, and by him entered of record on the books of the said common-council.— All intermediate vacancies in the common-council, shall be supplied in like manner on any day which the mayor, recorder, or senior alderman, as the case may be, shall appoint, previous notice thereof being given as aforesaid; and the person or persons so chosen, shall continue in office until the next general election.— The common councilmen, when chosen, shall elect one of their body to preside at their meetings, who shall have power to convene the said common-council when necessary. And in case of the death, resignation, or removal of the common-councilman so chosen to preside; it shall be lawful for the mayor, recorder, or senior alderman, as the case may be, to convene the common-council for the purpose of electing one of their body to supply such vacancy. The sole and exclusive right of passing bye-laws, and taxing the freeholders and inhabitants of the said borough, together with the appropriation of all monies belonging to the same, is hereby vested in the common-council. All taxes within the said borough shall be equal and uniform, and for the sole purpose of regulating the police of the same. All vacancies in the court of hustings shall be supplied by the governor, with advice of the council, on recommendations of the said court, from the members of the common-council, or from among the citizens of the said borough, who shall have the qualifications prescribed by this act for the members of the common council. The election of the mayor is hereby declared to be vested in the court of aldermen. So much of the charter of the borough of Norfolk, and of all and every act or acts of assembly, as is contrary to the intent and meaning of this act, is hereby repealed.

CHAP. LXXIII.

*An act concerning the emancipation
of certain slaves, belonging to the
estate of Joseph Mayo, late of Hen-
rico county.*

[Passed December 13, 1787.]

I. WHEREAS Joseph Mayo of the county of Henrico, lately deceased, by his last will and testament in writing, bearing date the twenty seventh day of May one thousand seven hundred and eighty, and duly proved and recorded in the general court on the tenth day of October one thousand seven hundred and eighty five, did amongst other things therein contained, make the following bequest. "It is my most earnest request that the gentlemen who shall be named and appointed executors of this my last will, petition the general assembly for leave to set free all and every one of the slaves of which I may die possessed, on account of their services to me whilst alive, and I intreat my said executors to leave nothing undone which may be requisite for obtaining the manumission of the said slaves of which I may die possessed."

Emancipation
of slaves of
Joseph Mayo,
by his will,
confirmed.

II. And whereas it appears to this present general assembly just and proper, that the benevolent intentions of the said Joseph Mayo shall be carried into effect, under such limitations and restrictions, as will guard the rights of all persons having claims upon the estate of the said Mayo either as creditors or legatees under his will: *Be it therefore enacted*, that Paul Carrington, Miles Selden, and Joseph Carrington, Esquires, are hereby constituted and appointed trustees to carry into effect the aforesaid bequest, for emancipating all such slaves as the said Joseph Mayo died possessed of, and all the increase of the said slaves since his death, subject to the direction and controul of the high court of chancery; who are hereby authorized and required to make all such orders and decrees as may from time to time, to the said court seem just and reasonable, for carrying the said bequest into full effect, having regard to the payment of all debts due by

the said Joseph Mayo, and the legacies devised by him, if any such devisees there be, which ought in the opinion of the court be complied with, prior to the emancipation of such slaves, and to raise such a sum of money from the labour of the said slaves, as will, in the opinion of the court, be sufficient to provide for the maintenance and support of all such slaves belonging to the said Mayo's estate, as from their tender years or from advanced age or infirmities, may be deemed incapable of providing for themselves or in danger of becoming chargeable to the community: And in case of the death, refusal, or disability to act, of any of the aforesaid trustees, it shall and may be lawful for the said high court of chancery to appoint one or more trustees, in the room of him or them so dying, refusing, or disabled. And the said high court of chancery shall have full power and authority to make all other rules, orders, and decrees, respecting the management of the said slaves: and as soon as, in the opinion of the said court sufficient provision shall be made for payment of the debts and legacies with which the said estate is chargeable, and sufficient provision for the support of those slaves who from age or infirmities may be able to maintain themselves, then it shall and may be lawful for the said high court of chancery to make such order or decree as to them may seem proper for emancipating the aforesaid slaves, and shall cause to be delivered to such slave so emancipated, or to the trustees appointed agreeably to this act, a certificate of the emancipation of every such slave, who shall after such order or decree and certificate being issued agreeably thereto, be fully emancipated, and entitled to all privileges to which other free negroes and ~~mulattoes~~ are by law intitled, in as full a manner as if they and each of them were specially named in this act. *Provided nevertheless*, that at any time before the said high court of chancery shall make their final decree for the emancipation of the said slaves, it shall be lawful for any creditor or legatee of the said Joseph Mayo, deceased, to institute and maintain any action either in law or equity, for the recovery of any such debt, or legacy, in like manner as if this act had never been passed. *Provided also and be it further enacted*, that nothing in this act contained shall be construed to affect the right or interest of any devisee or devisees

claiming under the will of the said Joseph Mayo, deceased, as to any other estate or interest whatsoever devised by the said will.

CHAP. LXXIV.

An act to confirm the freedom of certain negroes late the property of Chareles Moorman, deceased.

([Passed December 12, 1787])

I. WHEREAS it has been represented to the present general assembly that Charles Moorman, deceased, late of the county of Louisa, did, on the twenty eighth day of May, in the year one thousand seven hundred and seventy eight, by deeds under his hand and seal, release unto thirty three slaves, then his absolute property, all the right, title, or interest, which he had to the persons of the said slaves, or to any property they might acquire, such emancipation and right to property, to take effect immediately, where the said slaves were of full age, and where the males were under twenty one, and the females under the age of eighteen years, to take effect when they should respectively attain to those ages.

Emancipation
of slaves of
Charles
Moorman, by
his will, con-
firmed.

II. And whereas the said Charles Moorman, did by his last will and testament, bearing date the second day of September, in the year of our Lord one thousand seven hundred and seventy eight, which has been duly proved, and recorded in the court of Louisa county, make the following bequests to wit: "Item, I lend to my said son Robert the labour of the five following slaves, viz: Phyllis, (Toby's daughter) Judy, John, (Toby's son) Easter, and Rachel; the males until they attain to the age of twenty one years respectively, and females to the age of eighteen years, and then after that time, it is my will and desire, that the said five slaves and their increase, shall forever hereafter be discharged to all intents and purposes from slavery, or the service of any person whatsoever, and that the said

slaves and their increase, shall enjoy all the benefit of freedom in the same manner as if they had been free-born. *Item*, I lend to my son Thomas the labour of the four following negro slaves, viz: Lucy, Hannah, Tom, and Adam, in manner as followeth: the three last named under the same limitations, and to be made free in the same manner as the five slaves lent to my son Robert; my will is that the first named Lucy shall remain with her mother till she is of age, or as long as her mother lives, and that whoever shall keep her, shall pay reasonable wages to my son Thomas, until her mothers death, then she is to be under the same limits as the others to my son Thomas, to be made free at the age of eighteen years. *Item*, I lend to my son James the labour of the four following negro slaves, viz. George, Sary, Amy, and Nelly, under the same limitations, and to be made free in the same manner as the slaves lent to my son Robert. *Item*, I lend to my aforesaid beloved wife Mary, the five following negro slaves, viz. Morris, John (Rachel's son) Phyllis, Jean, and Aggy and that she have the benefit of their labours during her natural life, and after her decease, the said negroes to enjoy their freedom as above mentioned, they and their heirs forever, to all intents and purposes. *Item*, I lend to my daughter Agnes Venable, one negro girl slave, named Letty, under the same limits, and to be made free in the same manner as the slaves lent to my son Robert. *Item*, I lend to my daughter Elizabeth Johnston, one negro girl named Peg, under the same limitation, and to be made free in the same manner as the slaves lent to my son Robert. *Item*, I lend to my daughter Mary Taylor, one negro girl named Milly, under the same limitation, and to be made free in the same manner as the slaves lent to my son Robert, and also one negro girl named Mima, in the same manner, and to be made free as above. *Item*, it is my will and desire that the slaves hereafter named, viz. Jack, Allen, Rachel, Dinah, Hannah, Sarah, Toby, Lett, Beck, Venus, and Annis, in consideration of their faithful services be immediately free, and enjoy all the benefits thereof as persons born free. In case the laws of the land will not admit of such freedom, that then the said last mentioned slaves and their increase be equally divided among my other legatees, or their legal representatives. *Item*, it is my will and

desire, and I hereby leave it as my particular instruction to my executors, as soon as may be, to make application to the general assembly of this commonwealth, for an act to confirm the freedom hereby intended to be given to all the slaves above mentioned, and in case such an act cannot be obtained, that then my legatees keep possession of their respective loans and their increase, to descend to them and their heirs or assigns forever. Reserving nevertheless a right for all the above-mentioned slaves to claim the benefit of this my last will and testament: if ever hereafter it should be lawful for them so to do."

III. And whereas it is just and right that the benevolent intentions of the said Charles Moorman, deceased, towards his said slaves should be carried into effect, *Be it therefore enacted by the General Assembly,* That the following slaves mentioned in the said bequests to wit: Adam, Annis, Milly, Beck, Dinah, Sarah, Venus, Allen, and Rachel, who are between the ages of twenty one, and forty five years, shall be, and they are hereby emancipated and set free, to all intents and purposes, in like manner as if they had been born free.

IV. *And be it further enacted,* That the following slaves mentioned in the said bequests to wit: Morris, John (Rachel's son) Phyllis, Jane, and Aggy, (who were devised to the widow of the said Charles Moorman, deceased, during her life, and who hath since departed this life) shall be, and they are hereby emancipated and set free to all intents and purposes, in like manner as if they had been born free.

V. *And be it further enacted,* That the following slaves mentioned in the said bequests to wit: George, Amy, Nelly, Phyllis, John, Tom, Lucy, Sarah, Hannah, Easter, Lett, Peg, Judy, and Fanny, who are under the age of twenty one years; shall respectively be emancipated and set free to all intents and purposes, in like manner as if they had been born free; the males, when they arrive at the age of twenty one years, and the females when they arrive to the age of eighteen years.

VI. *And be it further enacted,* That the following slaves mentioned in the said bequests to wit: Toby, Lett, Hannah, Jack, and Rachel, who are above the age of forty five years (so soon as Christopher John-

ston, executor of the said Charles Moorman, deceased, or any other person, shall in the courts of the counties in which the said slaves respectively reside, enter into bond with approved security, payable to the justices then sitting, and their successors, with condition that the said slaves shall not become chargeable to the public) shall be emancipated and set free to all intents and purposes, in like manner as if they had been born free.

✓ The increase of the slaves by this act emancipated, shall have and enjoy all the benefits of freedom as fully as if they had been born free. The increase of such of the said slaves as are by this act to be emancipated at any future period, shall have and enjoy all the benefits of freedom from the time that the emancipation of their parents shall take place. Saving to all and every person or persons, bodies politic and corporate, (other than those claiming under the will of the said Charles Moorman) all such right, title, and interest, which he or they might have had in case this act had never been made.



CHAP. LXXVII.

An act granting to John Fitch the exclusive privilege of constructing and navigating boats impelled by fire or steam, for a limited time.

{Passed the 7th of November, 1787.}

Exclusive privilege granted to John Fitch, to navigate steam boats, for a limited time.

I. WHEREAS John Fitch, of the state of Pennsylvania, hath represented to the present general assembly, that he hath constructed an easy and expeditious method of impelling boats through water by the force of fire or steam, and hath made application for the sole and exclusive right of making and navigating all boats impelled by the force of fire or steam within this state, for a limited time, *Be it therefore enacted by the General Assembly of the commonwealth of Virginia*, That the said John Fitch, his heirs, executors, administrators,

and assigns, are hereby vested with the sole and exclusive right and privilege of constructing, and navigating, every species of boats or water craft, which may be impelled through the water by the force of fire or steam, in the bays, rivers and creeks within the territory and jurisdiction of this state, for and during the term of fourteen years, from and after the end of the present session of general assembly. If any person or persons, other than the said John Fitch, his heirs, executors, administrators, or assigns, shall construct, use, employ, or navigate, any boat, or water-craft, which shall be impelled through the water by the force of fire or steam, within the territory of this state, every person or persons so offending shall forfeit and pay to the said John Fitch, his heirs, executors, administrators, or assigns, the sum of one hundred pounds, for each boat so constructed, used, or navigated, to be recovered by action of debt in any court of record within this commonwealth, with costs of suit, and shall moreover forfeit to the said John Fitch, his heirs, or assigns, every such boat or water craft, together with the steam-engine, and all appurtenances, to be recovered, with costs of suit, in any court of record within this state.

II. *Provided nevertheless*, That this act shall be void at the expiration of three years from its commencement, unless the said John Fitch shall then have in use, in some river of this commonwealth, boats or craft of at least twenty tons burthen each, constructed and navigated as above described.

CHAP. LXXVIII.

An act authorizing the directors of the public buildings in the city of Richmond to convey to Philip Turpin certain lands.

[Passed the 14th of December, 1787.]

I. WHEREAS it hath been represented that the directors of the public buildings in the city of Richmond have appropriated for the use of the public, certain

Directors of
public build-
ings, autho-
rised to con-

vey certain
lots in Rich-
mond, to Phi-
lip Turpin.

lands within the said city the property of Philip Turpin, part whereof are since found by the said directors to be unnecessary for the said purpose; and the said Philip Turpin hath made application to the present general assembly to authorise and require the said directors, in behalf of the commonwealth, to convey and release to him so much of the said lands as they may judge unnecessary for public use; *Be it therefore enacted*, That the said directors, or a majority of them, shall, and they are hereby authorised and required to execute a deed for conveying and releasing to the said Philip Turpin, and his heirs, all the right, title, and interest, of this commonwealth, in, and to so much of the lands, so appropriated, as the said directors shall judge unnecessary for public use.

II. *And be it further enacted*, That the directors shall cause the lands deemed unnecessary for public use, previous to the execution of a deed for the same, to be valued by a jury, in like manner as is directed by law for lands taken and appropriated for the use of the public, within the said city, and shall return such valuation to the court of the county of Henrico, there to be recorded: *Provided* that the jury, in estimating the value of the said land, shall have regard to its comparative value with the other lands, and their former appraised value.

CHAP. LXXIX.

An act giving John Hoomes the exclusive privilege of conveying persons in stage carriages between certain places for a limited time.

[Passed the 4th of December, 1787.]

Exclusive
privilege
granted to
John Hoomes
to carry per-
sons in stage-
carriages, for
a limited
time.

I. WHEREAS it is represented to the present general assembly that John Hoomes hath undertaken to keep up and continue a line of stages for the purpose of conveying persons and baggage between Alexandria and Fredericksburg, and between Fredericksburg and

- **Richmond and Hampton**, which will be of considerable public convenience and utility: therefore it is reasonable that the said John Hoomes should possess, for a time, any emoluments arising therefrom, *Be it therefore enacted*, That the said John Hoomes shall have the sole and exclusive right of conveying for hire, persons in stage-carriages between Alexandria and Fredericksburg, and between Fredericksburg and Richmond and Hampton, and to and from any intermediate place or places, for and during the term of three years; and shall and may demand and take for each passenger three pence three farthings per mile, and three pence three farthings per mile for every hundred and fifty pounds weight of baggage exceeding fourteen pounds, conveyed in any of the said stage-carriages. If the said John Hoomes, by himself, or any other, shall demand, or receive, any greater rates than are hereby allowed, he shall forfeit and pay the sum of twenty pounds, to be recovered with costs by an action of debt, bill, plaint, or information, in any court of record, to the use of the party injured. If any person or persons, other than the said John Hoomes, his agents, or servants, establish, or run, any stage-carriages between either of the before mentioned places, or any intermediate place or places, and demand, or take, directly, or indirectly, any fee, or reward, whatsoever, for conveying any person, or persons, or their baggage, in a stage-carriage, or carriages, between either of the above mentioned places, or any intermediate place, during the term aforesaid, he, or they, so offending, shall forfeit and pay for every stage so run or established, the sum of one hundred pounds, and for every person, or one hundred and fifty pounds of baggage, by him. or them, so conveyed, the sum of one hundred pounds, to be recovered, with costs, by an action of debt, bill, plaint, or information, in any court of record, to the use of the said John Hoomes. The said John Hoomes shall, on or before the first day of May next, enter into bond, with sufficient security, in the general court, or in the court of the counties of Caroline or Henrico, in the sum of one thousand pounds, payable to the governor, and his successors, for the use of the commonwealth, with condition for the due and faithful keeping up the said line of stages for and during the term aforesaid.

CHAP. LXXX.

An act for establishing a new boundary line between the counties of Henrico and Hanover.

[Passed December the 18th, 1787.]

Boundary
line between
counties of
Henrico and
Hanover, es-
tablished.

I. WHEREAS the main run of Chickahominy-Swamp hath been by law established as the boundary-line between the counties of Henrico and Hanover, which, from various causes, is formed into a variety of streams, so that the main run cannot at this time be ascertained with precision; *Be it therefore enacted by the General Assembly*, That the courts of the said counties shall, immediately after the passing of this act, appoint, each of them, two commissioners, respectable freeholders, not inhabitants of either of the said counties, who shall act upon oath, and they, or a majority of them, are hereby empowered and required to proceed to chop a line of marked trees, to begin at the place where the New Kent line corners on the swamp, and run up the said swamp to the place where a bridge formerly stood, commonly called and known by the name of Winston's bridge, opposite the land late the property of Peter Winston, deceased.

II. The said commissioners, in making the said line, shall have regard to the original main run of the said swamp, where the same can be ascertained, except where there are disputes existing respecting the main run, or suits already commenced by persons owning lands adjacent to the said main run, they shall in every such instance chop a line in such manner as may appear most convenient, without having regard to any run whatsoever.

III. The said commissioners shall call in some county surveyors who shall act under their directions in running the aforesaid line; and may also, for their information, require the attendance of any person or persons who are, or have been, acquainted with the said swamp, or the runs thereof.

IV. And in case of the death, refusal or other inability of one or more of the commissioners to act, the

said county courts, or either of them, are hereby required to appoint another, or others, as the case may be.

V. The commissioners appointed as aforesaid, shall make report on their proceedings to the court of each of the said counties, on or before the first day of November one thousand seven hundred and eighty eight, which report shall be recorded therein; and the line so marked by them, shall thereafter be the boundary between the said counties of Henrico and Hanover, for the sole purpose of ascertaining the jurisdiction thereof.

VI. The said commissioners shall be allowed ample compensation for their trouble, which, with every other expence of marking the said line, shall be levied on the tithable persons in each county, in proportion to their respective numbers.

VII. *And be it further enacted*, That nothing herein contained shall be construed to affect the title of any person or persons to lands on the said swamp.

CHAP. LXXXI.

An act to amend the act, intituled An act for incorporating the town of Petersburg, and for other purposes.

[Passed the 13th of December 1787.]

I. *BE it enacted by the General Assembly*, That from and after the passing of this act the court of hustings, in the town of Petersburg, shall have cognizance of all causes, either in law or equity, which shall be instituted therein for any debt, or contract, hereafter made, or entered into, where both the parties are resident within the limits of the said town; and also of all presentments, informations, or suits, which shall be made, preferred, or instituted therein for a breach of any penal statute, or act of assembly, or any bye-law, or ordinance of the common-hall: And that the serjeant of the said court of hustings shall summon twen-

Charter of
Petersburg
amended.

ty four freeholders to attend the court to be held for the said town, in the months of March, May, August, and November annually, out of which number fifteen, at the least, shall be sworn as a grand jury, with power to inquire into, and make presentments of, all breaches of penal laws committed within the limits of the said town, in like manner as the grand juries for the respective counties may now by law do.

II. Whenever the common-hall of the said town shall judge it necessary to purchase any lot or parcel of land for the use of the said town; to erect or repair any public buildings; to build or repair any wharf; to make any causeway; to sink common sewers or drains; to repair any street or road; to appoint watchmen, or to fix lamps to light the town, they shall appoint a day for the meeting of the electors qualified by law, to vote for members of the common-hall, and give two weeks previous notice of the time and place of such meeting, by publication in the gazette of the said town, or otherwise, advertising the same in the most public places therein:

III. If two thirds of the electors qualified as aforesaid shall meet the mayor, recorder, or eldest alderman, and a majority of them agree to adopt the measure proposed by the common hall, it shall thereafter be lawful for the common-hall to raise a sum of money sufficient for that purpose, in like manner, as is directed for carrying into effect the other powers vested in the common-hall.

IV. If two thirds of the said electors should not attend at the first appointment, the business shall be postponed, from time to time, until two-thirds shall attend. *Provided always*, That nothing herein contained shall be deemed or taken to prevent, or restrain, the common-hall from imposing and levying a tax, within the said town, not exceeding the sum of one hundred pounds, in any one year, for the purposes within mentioned, or such of them as they shall think necessary.

V. Two additional aldermen, as well as common councilmen, shall hereafter be chosen at each annual election.

VI. And whereas the persons elected common-councilmen in the month of September last, for the corporation of Petersburg, refused to qualify; and the former hall undertook to appoint other members in their stead,

which is supposed to be contrary to the spirit and intention of the act for incorporating the said town, *Be it therefore enacted*, That the present members of the said hall are hereby displaced, and sixteen members shall be elected, on the first Wednesday in January next in like manner, as is directed and prescribed for the annual elections.

VII. The members so elected shall continue in office until the day appointed for the annual elections. *Provided always*, That no inhabitant of the said town, unless he be a citizen of this commonwealth, shall have right to vote for members of the common-hall.

VIII. *Provided always, and be it further enacted*, That the powers of the serjeant of the said town shall not extend to the execution of any process except such as shall be issued by the authority of the said town; nor to the collection of any taxes but those imposed by the common-hall; any law, custom, or usage to the contrary, notwithstanding.

IX. So much of the act for incorporating the said town of Petersburg, as comes within the purview and meaning of this act, is hereby repealed.

CHAP. LXXXII.

An act giving Richard towns and John Woolfolk the exclusive right of conveying persons in stage carriages to and from certain places for a limited time.

[Passed the 19th of December 1787.]

I. WHEREAS it is represented that Richard Towns and John Woolfolk have laid out and expended a considerable sum of money in the purchase of carriages and horses, for the purpose of conveying persons and baggage between Richmond and Petersburg, and between Petersburg and Portsmouth, which will be productive of considerable public convenience

Exclusive privilege granted to Richard Towns and John Woolfolk, to convey persons in stage-carriages.

and utility: And whereas the said Towns and Woolfolk have undertaken to keep up and continue the said line of stages as aforesaid in a proper and sufficient manner, therefore it is reasonable that they should possess for a time, any emoluments resulting therefrom: *Be it therefore enacted by the General Assembly*, that the said Richard Towns and John Woolfolk, shall have the sole and exclusive right of conveying for hire, persons in stage carriages between Richmond and Petersburg, and between Petersburg and Norfolk by the way of Suffolk, and to and from any intermediate place or places, for and during the term of three years; and shall and may demand and take for each passenger three pence three farthings per mile, and three pence three farthings per mile for every hundred and fifty pounds weight of baggage exceeding fourteen pounds, conveyed in any of the said stage carriages.

II. If the said Richard Towns and John Woolfolk, by themselves, or any other, shall demand or receive any greater rates than are hereby allowed, he or they shall forfeit and pay the sum of twenty pounds, to be recovered with costs by action of debt, bill, plaint, or information, in any court of record, to the use of the party injured.

III. If any person or persons, other than the said Richard Towns and John Woolfolk, their agents or servants, establish or run any stage-carriages between either of the before mentioned places, or any intermediate place or places, and demand or take, directly or indirectly, any fee or reward whatsoever for conveying any person or persons, or their baggage, in a stage-carriage or carriages, between either of the before mentioned places, or any intermediate place or places, during the term aforesaid. he or they so offending, shall forfeit and pay, for every stage so run or established, the sum of one hundred pounds, and for every person, or one hundred and fifty pounds of baggage, by him or them so conveyed: the sum of ten pound, to be recovered, with costs, by action of debt, bill, plaint, or information, in any court of record, to the use of the said Richard Towns and John Woolfolk.

IV. And if the said Richard Towns and John Woolfolk shall undertake to carry any passenger or baggage to any of the places herein mentioned, or any

part of such distance, and shall fail to do so, either by such stage breaking down, the horses tiring, or by any other means, they shall refund whatever they may have received, or forfeit what they might be entitled to receive for such service.

V. The said Richard Towns and John Woolfolk shall, on or before the first day of May next, enter into bond, with sufficient security, in the general court, or in the court of the counties of Chesterfield or Prince George, in the sum of one thousand pounds, payable to the governor and his successors, for the use of the commonwealth, with condition for the due and faithful keeping up the said line of stages for and during the term aforesaid.

CHAP. LXXXIII.

An act for establishing a town in the county of Hampshire.

[Passed December the 12th, 1787.]

I. *BE it enacted by the General Assembly*, That twenty acres of land, in the county of Hampshire, late the property of Joseph Watson, deceased, shall be and they are hereby vested in Elias Poston, Henry Fry, Isaac Hawk, Jacob Hoover, John Winterton, Valentine Swisher, Rudolph Bumgarner, Paul M'Keever, John Sherman Woodcock, and Isaac Zane, gentlemen, trustees, to be by them, or a majority of them, laid off into lots of half an acre each, with convenient streets, and established a town by the name of Watson.

Town of
Watson, in
Hampshire
established.

II. So soon as the said land shall be so laid off the trustees, or a majority of them, shall proceed to sell the lots at public auction for the best price that can be had, the time and place of which sale being previously advertised at the court-house of the said county, on three successive court-days, and convey the said lots to the purchasers, in fee, subject to the condition of building on each a dwelling-house sixteen feet square, with a brick or stone chimney, to be finished fit for

habitation within three years from the day of sale, and retain the money arising from the sale of the said lots, until the title of the said land shall be ascertained by judgment of a court, and immediately thereafter pay the money to the person or persons to whom they shall be adjudged.

III. If the title to the said lands shall not be controverted within six years from the passing of this act, the said trustees shall then pay the money to the legal representatives of the said Joseph Watson, deceased.

IV. The said trustees, or a majority of them, shall have power, from time to time, to settle and determine all disputes concerning the bounds of the said lots, and to establish such rules for the regular building of houses thereon, as, to them, shall seem best.

V. In case of the death, removal out of the county, or other legal disability, of any one, or more, of the said trustees, it shall be lawful for the remaining trustees to elect others in their room, and the persons so chosen shall have the same power and authority as any other in this act particularly appointed.

VI. The purchasers of lots in the said town, so soon as they shall have built upon and saved the same according to the conditions of their respective deeds of conveyance, shall be entitled to and have and enjoy all the rights, privileges, and immunities, which the freeholders and inhabitants of other towns, in this state, not incorporated, hold and enjoy.

VII. If the purchaser of any lot shall fail to build thereon within the time before limited, the said trustees, or a majority of them, may thereupon enter into such lot and sell the same again, and apply the money for the benefit of the inhabitants of the said town.

VIII. The said trustees shall lay off the said lots and streets as contiguous to that part of the said land from whence the water issues, supposed efficacious in certain disorders, as the situation will admit of; and shall also lay off half an acre of land (to include the said spring) the length of which shall extend down the stream and be double the width: which half acre so laid off shall be, and the same is, hereby vested in the said trustees, and their successors, in trust, to and for the use of such persons as may resort thereto.

CHAP. LXXXIV.

An act to empower the vestry of the parish of Saint James Northam, in the county of Goochland, to sell the glebe of the said parish, and to lay out the money in purchasing a more convenient glebe.

[Passed the 6th of December, 1787.]

I. WHEREAS it is represented to this present general assembly, that the glebe lands in the parish of Saint James Northam, in the county of Goochland, are for the most part worn out and not stocked with timber sufficient to keep up the necessary repairs; and that the houses thereon are in a ruinous situation; and that it would be very advantageous to the inhabitants of the said parish, if the vestry or trustees thereof were empowered to dispose of the said glebe, and to lay out the money arising from the sale thereof in purchasing other lands for a glebe:

Vestry of St James Northam, authorized to sell their glebe.

II. *Be it therefore enacted by the General Assembly,* That the said glebe-lands, with the appurtenances, be, and the same are hereby vested in the vestry or trustees of the said parish, in trust; *Nevertheless,* That the said vestry or trustees, or the greater part of them, shall by deed or deeds of bargain and sale, sell and convey the said glebe, with the appurtenances, for the best price that can be got, to any person or persons who shall be willing to purchase the same; to hold to such purchaser or purchasers, his or their heirs and assigns forever.

III. *And be it further enacted,* That the money arising by the sale of the said glebe, shall be by the said vestry or trustees laid out and applied towards purchasing a more convenient glebe, for the use and benefit of the inhabitants of the said parish.

CHAP. LXXXV.

An act to amend the act appointing trustees to sell part of the lands of John Todd, deceased, for the payment of his debts, and for other purposes.

[Passed the 29th of November, 1787.]

Act authori-
sing trustees
to sell part of
the land of
John Todd,
deceased a-
mended.

I. WHEREAS by an act of the last session, intituled "An act appointing trustees to sell part of the lands of John Todd, deceased, for the payment of his debts, and for other purposes," the tract of land whereon the said John Todd resided at the time of his death was particularly reserved from being sold by the said trustees; And whereas it hath been represented to the present general assembly, that it will be more advantageous to the representatives of the said John Todd, to sell the land whereon he resided at the time of his death, and reserve the lands whereon his widow Jane Todd now lives in lieu thereof:

II. *Be it therefore enacted*, That the said trustees may sell the tract of land whereon the said John Todd resided at the time of his death; and the tract whereon his widow now resides shall be, and the same is hereby reserved in lieu thereof; any thing in the said recited act to the contrary thereof notwithstanding.

III. *And be it further enacted*, That James Overton shall be, and he is hereby added to the former trustees, with the same power and authority as any one particularly named in the said recited act.

CHAP. LXXXVI.

An act to encrease the allowance for pilotage between Urbanna and Tappahannock.

[Passed the 3d of November, 1787.]

I. WHEREAS it hath been represented to the present general assembly, that the prices allowed for pilotage of vessels between Urbanna and Tappahannock, are inadequate to the duty;

Pilotage between Urban-
na and Tappahannock
increased.

II. *Be it therefore enacted*, That instead of three shillings and six pence per foot, there shall be allowed and paid the sum of five shillings per foot, for pilotage between Urbanna and Tappahannock; any law to the contrary thereof notwithstanding.

CHAP. LXXXVII.

An act to amend the act for establishing certain inspections of tobacco.

[Passed the 3d of November, 1787.]

I. WHEREAS doubts have arisen whether the inspectors at Lynch's and Rivanna warehouses are by law required to receive the duties and imposts on tobacco brought to such warehouses: For removing such doubts,

Inspectors of tobacco at
certain warehouses author-
ized to receive duties.

II. *Be it enacted by the General Assembly*, That the inspectors at the said warehouses of Lynch's and Rivanna, shall be, and they are hereby authorised and required, to receive the duties and impost on all tobaccos inspected at such warehouses; and shall account for, and pay into the public treasury, such duties and impost, in the same manner and under the like penalties, as other inspectors are by law directed. And the said inspectors shall give their manifest for such tobacco when required, which may thereupon be shipped by the owners thereof, without being reinspected at any other warehouse.

CHAP. LXXXVIII.

An act giving certain powers to trustees of the town of Dumfries.

[Passed the 4th of December, 1787.]

Power of
trustees of
town of Dum-
fries enlarg-
ed.

BE it enacted by the General Assembly, That the trustees of the town of Dumfries, in the county of Prince William, and their successors, or a majority of them, shall have power to erect or repair a market-house in the said town, to appoint a clerk of the market, to establish an assize of bread, to appoint and pay watchmen, remove nuisances and obstructions in the town or streets, and to repair and keep in order the main street in the said town, and to impose taxes not exceeding one hundred pounds annually on the tithables and property real and personal, within the town, for the carrying into execution all or any of the powers hereby given them; to make provision and regulations for the collecting and accounting for the taxes so raised, by appointing a collector, and directing distress to be made for delinquencies, or by any other ways or means; and to make all such ordinances and regulations not contrary to the laws and constitution of this commonwealth, as shall by them or a majority of them be thought necessary for carrying this act into effect. Vacancies by death or otherwise of the said trustees, or any of them, shall be supplied by the election of the freeholders, housekeepers, and free male inhabitants of the said town, aged twenty one years, other than free negroes or mulattoes, who shall have resided therein for the space of six months, and who possess in their own right within the said town moveable property of the value of fifty pounds; which election shall be conducted by the sheriff of the said county, and held at the court house thereof in the said town, upon a day to be appointed for that purpose by the said trustees, or a majority of them; whereof ten days previous notice shall be given by the sheriff in the said town, who shall make return of the person elected, together with a fair copy of the poll by him taken, to the said trustees; who shall record the return with their other proceedings in books to be by them kept for that

purpose. No person shall be capable of being elected a trustee who is not a freeholder and inhabitant of the said town at the time of election. Whenever a trustee shall cease to be a freeholder or an inhabitant of the said town, he shall thenceforth be considered as disqualified, and another shall be elected in his stead,

CHAP. LXXXIX.

An act to establish a town in each of the counties of Mercer and Nelson.

[Passed the 1st of November, 1787.]

I. *BE it enacted by the General Assembly, That* TOWNS of fifty acres of land lying on Kentucky river, near Har- Warwick and rod's landing in the county of Mercer, the property of Beallsbo- Walter Beall, are hereby vested in Hugh Magary, rough, in Thomas Allen, Benjamin Bell, Christopher Greenup, Kentucky, Samuel M'Afee, and Stephen Arnold, gentlemen, trust- established tees, to be by them, or a majority of them, laid off into lots of half an acre each, with convenient streets, and established a town by the name of Warwick.

II. *And be it further enacted, That* fifty acres of land lying at the mouth of Beachfork, on Salt river, in the county of Nelson, the property also of the said Walter Beall, are hereby vested in James Morrison, Francis Parepoint, Samuel Pottinger, Isaac Morrison, James Adams, Isaac Cox, Cuthbert Harrison, George Harrison, Andrew Hinds, John Kennedy, William Kendell, and Adkin Hill, gentlemen, trustees to be by them or a majority of them, laid off into lots of half an acre each, with convenient streets, and established a town by the name of Beallsborough.

III. That so soon as the said lands shall respectively be laid off into lots and streets, the trustees of each, or a majority thereof, shall proceed to sell the same at public auction, for the best price that can be had; the time and place of which sales shall be previously advertised for six months at the court-house of each of the counties of Mercer, Nelson, Lincoln, and Fayette; and convey the said lots to the purchasers in fee, sub-

ject to the condition of building on each a dwelling-house sixteen feet square at least, with a brick or stone chimney, to be finished fit for habitation within three years from the day of sale; and pay the money arising from such sales to the said Walter Beall, or his legal representatives.

IV. The trustees of the said towns respectively, or a majority of either of them, shall have power, from time to time, to settle and determine all disputes concerning the bounds of the lots, and to establish such rules and orders for the regular building of houses thereon, as to them shall seem best.

V. In case of the death, resignation, removal out of the county, or other legal disability of any of the said trustees, it shall be lawful for the remaining trustees, respectively, of either of the said towns, to elect others in their stead, who shall be vested with the same powers as any particularly appointed by this act.

VI. The purchasers of the said lots, so soon as they shall have built upon and saved the same according to the condition of their respective deeds of conveyance, shall be entitled to, and enjoy all the rights, privileges, and immunities, which the freeholders and inhabitants of other towns in this state, not incorporated, hold and enjoy.

VII. If the purchaser of any lot shall fail to build thereon within the time before limited, the trustees of the town where such failure shall happen, or a majority of them, may thereupon enter into such lot, and sell the same again, and apply the money for the benefit of the inhabitants of the said town.

CHAP. XC.

An act to empower the trustees of the Fredericksburg Academy, to raise a sum of money, by way of Lottery.

Lottery authorised, for Fredericksburg academy.

[Passed the 19th of November, 1787.]

BE it enacted by the General Assembly, That it shall be lawful for the trustees of the Fredericksburg

Academy, to raise, by lottery, a sum of money not exceeding five hundred pounds, for the purpose of supporting the said academy, and repairing and making additions to the buildings.

CHAP. XCI.

An act to establish a town in the county of Bourbon.

[Passed the 11th of December, 1787.]

I. *BE it enacted by the General Assembly, That* ^{Town of} ~~one hundred acres of land, lying on the lower side of~~ ^{Maysville, in} ~~Limestone creek, in the county of Bourbon, the pro-~~ ^{Bourbon} ~~perty of John May and Simon Canton, are hereby ves-~~ ^{county, Ken-} ~~ted in Daniel Boone, Henry Lee, Arthur Fox, Jacob~~ ^{tucky, estab-} ~~Boone, Thomas Brooks, and George Miford, gentle-~~ ^{lished.} ~~men, trustees, to be by them, or a majority of them, laid off into lots of half an acre each, with convenient streets, and established a town by the name of Maysville.~~

II. So soon as the said land shall be laid off into lots and streets, the trustees, or a majority of them, shall proceed to sell the same, at public auction, for the best price that can be had, the time and place of which sale being previously advertised at the courthouse of the said county on three successive court-days; and convey the said lots to the purchasers in fee, subject to the condition of building on each a dwelling-house sixteen feet square, with a brick or stone chimney, to be finished fit for habitation within three years from the day of sale; and pay the money arising from the sale of the said lots to the said John May and Simon Canton, or their legal representatives.

III. The said trustees, or a majority of them, shall have power, from time to time, to settle and determine all disputes concerning the bounds of the lots, and to establish such rules for the regular building of houses thereon, as to them shall seem best and most convenient.

IV. In case of the death, removal out of the county, or other legal disability, of any one or more of the said

trustees, it shall be lawful for the remaining trustees to elect others in their room; and the persons so elected shall have the same power and authority as if particularly named in this act.

V. The purchasers of lots in the said town, so soon as they have built upon and saved the same, according to the conditions of their respective deeds of conveyance, shall then be entitled to, and have and enjoy, all the rights, privileges, and immunities which the freeholders and inhabitants of other towns in this state, not incorporated, hold and enjoy.

VI. If the purchaser of any lot shall fail to build thereon within the time before limited, the said trustees, or a majority of them, may thereupon enter into such lot and sell the same again, and apply the money for the benefit of the inhabitants of the said town.

CHAP. XCII.

An act appointing commissioners to receive such proof, as may be adduced by certain persons with respect to the destruction of their property in the borough of Norfolk in the year 1776.

[Passed the 3d of January, 1788.]

Proof of destruction of property in Norfolk, in 1776, how ascertained.

1. WHEREAS by an act passed by the general assembly in May, one thousand seven hundred and seventy seven, commissioners were appointed to ascertain the losses sustained by the late inhabitants of the borough of Norfolk, by the destruction of their houses, which said commissioners made a report of their proceedings to the general assembly held in October, one thousand seven hundred and seventy eight: *And whereas* the general assembly did, by a resolution passed at the last mentioned session, direct that the claims of certain persons should be postponed for further proof, and it is expedient that persons should be appointed to receive such proof:

II. *BE it therefore enacted by the General Assembly,* That Miles King, George Booker, Samuel Griffin, Willis Riddick, John Howel Brigs, Edwin Gray, and James Wilkinson, gentlemen, or any three of them, shall be, and they are hereby appointed, commissioners to receive such proof as may be adduced in support of those claims which by the resolution above recited were postponed for further proof. The said commissioners shall severally take an oath before a magistrate well and faithfully to discharge the trust hereby reposed in them, and shall have power to send for any papers or records, and to summon before them any witnesses for their information. Every witness so summoned and attending the said commissioners, shall receive the same allowance for his attendance as is settled by law for a witness attending a county court; to be paid by the party summoning such witness. Every witness failing to attend upon such summons, shall forfeit to the party, at whose request he was summoned, the sum of ten pounds, to be recovered by motion in the court of the county where such witness resides; provided the said witness has ten days notice of such motion, and cannot when such motion is made make a reasonable excuse for such non-attendance. The commissioners hereby appointed shall make a report of their proceedings to the executive, to be laid before the general assembly at their next meeting.

III. *Provided always,* That no claim of any person or persons whatsoever, which shall have been presented to, and rejected by, the general assembly at any time heretofore, shall be admitted or allowed by the said commissioners.

CHAP. XCIII.

An act to authorise the court of Accomack county, to levy a sum of money for the use of Charles Bagwell and the executors of Alexander Stockley.

[Passed the 20th of November, 1787.]

Court of Accomack authorised to levy money for Charles Bagwell and exrs. of Alexander Stockley.

I. WHEREAS it has been represented to the present general assembly, that in the year one thousand seven hundred and seventy-two, Charles Bagwell and Alexander Stockley were church-wardens of the parish of Accomack, in the county of Accomack; and that they did, by virtue of an order from the said vestry, contract with a certain James Twisford to build a church in the said parish; and whereas the said vestry did afterwards refuse to permit the said church to be built, or to pay the said James Twisford for the materials which he had provided; in consequence whereof, the said Twisford commenced a suit against the said Charles Bagwell and Alexander Stockley, in the court of the said county, and hath recovered a judgment against them for the sum of one hundred and twenty-five pounds current money, and nine hundred and sixty-five pounds of tobacco, and fifteen shillings, for his costs; and it is just and right that the amount of the said judgment should be refunded to them:

II. *Be it therefore enacted by the General Assembly,* That the justices of the said county of Accomack shall, at the laying of their next county levy, levy the said sum of one hundred, and twenty-five pounds current money, and nine hundred and sixty-five pounds of tobacco, and fifteen shillings, upon the tithable persons of the said parish of Accomack, deducting therefrom the said Charles Bagwell's and Alexander Stockley's proportion of the said levy. The said money shall be collected and accounted for in like manner as the county-levy, and shall be paid to the said Charles Bagwell and the executors of the said Alexander Stockley, in proportion to the sums that shall respectively be paid by them in discharge of the judgment aforesaid.

CHAP. XCIV.

An act for forming a new county of the counties of Augusta, Hardy, and Rockingham.

[Passed the 4th of December, 1787.]

I. *BE it enacted by the General Assembly, That* from and after the first day of May next, all those parts of the counties of Augusta, Hardy, and Rockingham, within the following bounds, to wit: Beginning on the line of Rockingham county, on the North mountain, opposite to Charles Wilson's on the South Fork, thence a straight line to the Clay Lick on the North Fork, thence to the top of the Alleghana, and along the same and the east side of the Greenbrier-waters to the south west fountain of the South Branch, and thence between the same and the waters of James-River, along the dividing ridge to the said North mountain, and with the top of the same to the beginning, shall form one distinct county, and be called and known by the name of Pendleton.

Pendleton
county form-
ed out of Au-
gusta, Hardy,
and Rocking-
ham.

II. A court for the said county of Pendleton shall be held by the justices thereof on the first Monday in every month, after such county shall take place, in like manner as is provided by law for other counties, and shall be by their commissions directed. And the court of quarterly sessions for the said county of Pendleton, shall be held in the months of April, June, September, and December, in every year.

III. The justices to be named in the commission of the peace for the said county of Pendleton, shall meet at the house of Zariah Stratton in the said county, upon the first court-day after the said county shall take place, and having taken the oaths prescribed by law, and administered the oath of office to, and taken bond of the sheriff according to law, proceed to appoint and qualify a clerk, and fix upon a place for holding courts in the said county, at or as near the centre thereof as the situation and convenience will admit of; and thenceforth the said court shall proceed to erect the necessary public buildings at such place; and until such buildings be completed, to appoint any place for hold-

ing courts, as they shall think, proper. *Provided always,* That the appointment of a place for holding courts and of a clerk, shall not be made unless a majority of the justices of the said county be present; where such majority shall have been prevented from attending by bad weather, or their being at the time out of the county, in such case the appointment shall be postponed until some court day when a majority shall be present.

IV. The governor, with advice of the council, shall appoint a person to be first sheriff of the said county, who shall continue in office during the term, and upon the same conditions as are by law appointed for other sheriffs.

V. *Provided also, and be it further enacted,* That it shall be lawful for the sheriffs of each of the said counties of Augusta, Hardy, and Rockingham, to collect and make distress for any public dues and officers fees which shall remain unpaid by the inhabitants thereof, at the time the said county shall take place, and shall be accountable for the same in like manner as if this act had not been made.

VI. And the courts of the said counties shall have jurisdiction of all actions and suits which shall be depending before them at the time the said county of Pendleton shall take place; and shall try and determine the same, and award execution thereon.

VII. In all future elections of a senator, the said county of Pendleton shall be of the same district as the county of Augusta.

CHAP:-XCV.

An act for establishing an academy, and incorporating the trustees thereof.

[Passed the 31st of December 1787]

Randolph academy established and incorporated,

I. WHEREAS the inhabitants of the counties of Harrison, Monongalia, Randolph, and Ohio, are, from their remote situation, deprived of the advantages aris-

ing from the establishment of the public seminaries within this state; and it is just and reasonable that the one sixth of the fees of the surveyors of the said counties, which are now applied towards the support of William and Mary college, should be applied to the establishment of a public seminary within one of the said counties;

II. *Be it therefore enacted by the General Assembly,* That his excellency Edmund Randolph, Benjamin Harrison, Patrick Henry, Joseph Prentis, James Wood, George Mason, George Nicholas, John Harvey, Thomas Matthews, William Ronald, Henry Banks, William McClerry, John Evans, William John, Francis Worman, John Pearce Duvall, George Jackson, Benjamin Wilson, Nicholas Carpenter, John Powers, Archibald Woods, Moses Chapline, Ebenezer Zane, David Chambers, John Wilson, Jacob Westfall, junior, Robert Maxwell, and John Jackson, junior, gentlemen, shall be, and they are hereby constituted a body politic and corporate, to be known by the name of "The trustees of the Randolph academy," and by that name shall have perpetual succession and a common seal.

III. The said trustees shall hold their first session at Morgan-town in Monongalia county, on the second Monday in May next; and they shall then, or as soon after as conveniently may be, fix upon some healthy and convenient place within one of the counties of Harrison, Monongalia, Randolph, or Ohio, for the purpose of erecting thereon the necessary buildings for the said academy.

IV. The before named trustees and their successors, by the name aforesaid, shall be capable in law to purchase, receive, and to hold to them and their successors forever, any lands, tenements, rents, goods, or chattels of what kind soever, which shall be given or devised to, or purchased by them for the use of the said academy, and to sell and dispose of the same in such manner as to them shall seem most conducive to the advantage of the said academy; except such lands as shall be given to the said academy by this commonwealth, which shall not be aliened without leave first obtained from the legislature.

V. The said trustees, by the name aforesaid, may sue and be sued, plead and be impleaded, in any court of law or equity.

VI. They shall have power from time to time to establish such bye-laws, rules, and ordinances, not contrary to the constitution or laws of this commonwealth, as they shall deem necessary for the government of the said academy.

VII. The said trustees shall elect a president, treasurer, clerk, and so many professors and masters as may be necessary.

VIII. The president and other officers shall have fixed salaries and continue in office during good behaviour, to be judged of by the trustees, and they shall be ineligible as trustees so long as they continue in office. The said trustees shall hold two stated sessions in every year at the said academy at such times as they shall think most convenient; and in case a sufficient number do not attend to proceed to business, they may adjourn to the next session, or to any shorter time.

IX. In cases of emergency the chairman at the request of any of the trustees shall call a meeting.

X. Not less than seven of the said trustees shall constitute a board to determine upon any matter relative to the establishment, government or support of the said academy, or to the appointment of the officers and professors thereof, or the fixing their salaries; and no real estate belonging to the said academy shall be disposed of unless eleven of the said trustees shall concur in opinion thereupon.

XI. The treasurer shall receive all monies accruing to the said academy and property delivered to his care, and pay or deliver the same to the order of the board of trustees; and before he enters on the execution of the duties of his office shall give bond and security for such sum as the trustees shall direct, payable to them and their successors, and conditioned for the faithful discharge of the trust reposed in him; and that he will, when required by the board of trustees, render to them a true account of all monies, goods, and chattels received by him on account of, and for the use of, the said academy.

XII. The trustees, the president, professors, and other officers shall, before they enter on the execution of the duties of their office, take the oath of fidelity to the commonwealth, and an oath that they will faithfully discharge the trust reposed in them. The said

oaths shall be administered to the said trustees in the courts of the counties respectively in which they reside, and to the president, professors, and other officers, by the chairman of the board of trustees.

XIII. Upon the death, resignation or other legal disability of any of the said trustees, or of the president or other officers of the said academy; or in case any of the said officers shall be removed from office for any misconduct, the trustees shall, at their next or any succeeding session, supply the vacancy occasioned thereby.

XIV. The surveyors of the said counties of Monongalia, Harrison, Randolph, and Ohio, shall not be accountable to the president and masters of William and Mary College, for any part of the fees which shall accrue to them after the first day of January, in the year one thousand seven hundred and eighty-eight: And the bonds given by them for the yearly payment of one-sixth part of their fees to the president and masters of the said college, shall be, and are hereby declared to be null and void, so far as relates to the fees which shall become due to them after the said first day of January, in the year last mentioned.

XV. Each of the surveyors of the said counties shall, within one month after he shall be required by the board of trustees, give bond with sufficient security in a reasonable sum, for the yearly payment of one-sixth part of the fees which shall become due to him after the said first day of January, to the said trustees; and in case any one of the said surveyors shall fail or refuse to give such bond and security, he shall forfeit and pay to the said trustees the sum of one hundred pounds, to be recovered by motion in the court of the county of such surveyor, upon giving him ten days previous notice of such motion: And each of the said surveyors shall annually forfeit and pay the like sum to the said trustees, to be recovered in the same manner, until he shall give such bond and security.

LAWS OF VIRGINIA,

CHAP. XCVI.

An act appropriating one sixth of the surveyors fees in the Kentucky district, to the use of the Transylvania Seminary.

[Passed December 13th, 1787.]

One sixth of surveyors fees in Kentucky payable to Transylvania seminary.

I. *BE it enacted by the General Assembly, That* the one-sixth of the surveyors fees hereafter arising, within that part of this commonwealth, called and known by the name of the Kentucky district, *instead* of being paid to the professors of William and Mary College, shall be paid by the surveyors thereof, to the trustees of the Transylvania Seminary, to be by them applied to the use of the said seminary, to be accounted for by the surveyors within the said district, and recovered by the said trustees in like manner as they were accounted for and recovered by the said professors: Any law, usage or custom to the contrary thereof, notwithstanding.

CHAP. XCVII.

An act for regulating the rights of cities, towns, and boroughs, and the jurisdiction of corporation courts.

[Passed January 8th, 1788]

Officers of corporation incapable of acting as justice, in the county.

I. *WHEREAS* the accumulating, different and distinct offices of power and authority in the same persons, has a tendency to introduce abuses, and to create an improper and dangerous influence in a few individuals, contrary to the spirit and genius of republican government, and naturally productive of oppression, and subversive of liberty: *Be it therefore enacted*

by the General Assembly, That from and after the first day of March next, no person being a member of any corporation court, court of hustings, or common-council of any city, town or borough within this commonwealth, shall while a member of such corporation court, court of hustings or common-council be capable of acting as a justice of any county court.

II. *And be it further enacted*, That from and after the said first day of March next, the respective corporation courts, or courts of hustings, of any city, town or borough, shall have jurisdiction only in suits or controversies instituted between the respective inhabitants or citizens of such city, town or borough, and between one or more of the inhabitants or citizens of such city, town or borough, and any person or persons not an inhabitant or inhabitants of this commonwealth, and in either case, only where the contract hath been made, or the cause of action hath accrued within such city, town or borough; and in all such suits and controversies, their respective jurisdictions shall not be limited to any particular sum, but shall be co-extensive with the jurisdiction of the county courts.

Jurisdiction
of corpora-
tion courts li-
mited.

III. *Provided nevertheless*, That nothing in this act contained, shall be construed to prejudice or in any manner affect, any suit now pending, or which may be instituted in any such corporation court, or court of hustings, before the said first day of March next, nor to prejudice, or in any manner affect the charters of the city of Williamsburg, and borough of Norfolk, or either of them.

Proviso.

IV. And whereas it is contrary to the true principles of representation, that a freehold estate in any particular place should enable the possessor to vote in the elections of different and distinct places. *Be it enacted*, That in any city, town or borough, which at any time hereafter, shall obtain and enjoy the privilege of sending, in its own right, a representative to the house of delegates of this commonwealth, the freeholders thereof shall be, and they are hereby declared incapable of voting in the election of delegates for any county, in virtue or right of their respective freehold estates within any such city, town or borough.

Right of
suffrage in
corporations.

V. *And be it further enacted*, That so much of any and every law as is contrary to this act shall be, and is hereby repealed.

AT A

GENERAL ASSEMBLY

BEGUN AND HELD

Edmund Randolph, esq.
governor.

At the Public Buildings in the City of Richmond, on Monday the twenty-third of June in the year of our Lord one thousand seven hundred and eighty-eight, and in the twelfth year of the commonwealth.



CHAP. I.

*An act to suspend the operation of the act, entitled An act establishing district courts.**

Act establishing district court, suspended.

I. *BE it enacted by the General Assembly, That the operation of the act intituled "An act establishing district courts," be, and the same is hereby suspended, until the first day of January one thousand seven hundred and eighty-nine, and in the mean time, the General Court. High Court of Chancery, and Court of Appeals, shall proceed in all things in like manner as if the said act had never passed: Provided, That nothing in this act contained shall be construed to suspend the functions of the additional judges of the general court, appointed under the said recited act "Establishing district courts."*

* This was a special session of the legislature, called immediately after the adjournment of the convention, which adopted the federal constitution. The laws were originally printed on a single sheet of paper, but they were soon so generally lost, that the acts of this session have been copied from the rolls.

CHAP. II.

*An act to continue the act intituled
An act authorising the treasurer to
receive specie into the treasury by
weight.*

BE it enacted by the General Assembly, That the Act authoris-
act intituled "An act authorising the treasurer to re- ing treasurer
ceive specie into the public treasury by weight," which to receive
will expire at the end of the present session, shall con- specie by
tinue and be in force from and after the expiration weight, fur-
thereof for one year, and from thence until the end of ther continu-
the next session of assembly. ed.



CHAP. III.

*An act to make good the appropria-
tions of money for the maintenance
of scouts and rangers; the pay of
the members of the convention, and
of the general assembly.*

WHEREAS by an act of the last session of assem- Appropria-
bly, intituled "An act concerning the convention to tion for scouts
be held in June," a sum not exceeding eight thousand and rangers,
pounds was directed to be reserved in the treasury the members
for the purpose of defraying the expences of the said con- of the con-
vention, and that such sum should be made good from vention, and
the funds appropriated to the support of civil govern- of the gener-
ment, or in case of deficiency therein, out of any un- al assembly.
appropriated money in the treasury; and those funds
from various causes not being at present productive of
specie, more particularly on account of the collections
being made in tobacco, which cannot now be convert-
ed into money without the public's sustaining great

loss. And whereas the surplus of the money arising from the various funds appropriated to the payment of the interest on the military debt, constitutes one of the most productive sources of the revenue appropriated for the support of civil government, and it appears that a considerable sum may be drawn therefrom, and a sufficient balance left in the treasury for the payment of the said interest: *Be it therefore enacted by the General Assembly*, That the treasurer shall be empowered and required to draw the sum of six thousand pounds from the funds appropriated to the payment of the interest on the military debt, and to replace the same if it should be necessary from the first sales of tobacco, or the first money received into the funds appropriated for the support of civil government. The said six thousand pounds shall in the first place be applied to make good the votes of the last assembly for the pay and other expences of scouts and rangers on the western frontier, and in the next place to the payment of the expences of the convention, which commenced in the city of Richmond on the second of June; and if any balance, after making the same good, shall remain in the treasury, it shall be applied to the payment of the expences of the present general assembly.

CHAP. IV.

An act to authorise the governor to issue certain grants.

Governor authorised to issue grants, with reservations of other claims included in the surveys.

WHEREAS sundry surveys have been made in different parts of this commonwealth, which include in the general courses thereof sundry smaller tracts of prior claimants, and which in the certificates granted by the surveyors of the respective counties are reserved to such claimants. And the governor or chief magistrate is not authorised by law to issue grants upon such certificates of surveys, For remedy whereof *Be it enacted by the General Assembly*, That it shall and may

be lawful for the governor to issue grants with reservation of claims to lands included within such surveys, any thing in any law to the contrary notwithstanding.

Copies from the Roll,

Teste,

J. PLEASANTS, JR. *Keeper of the Rolls.*

March 1st, 1810.

AT A

GENERAL ASSEMBLY

BEGUN AND HELD

Edmund Randolph, esq.
governor.

At the Public Buildings in the City of Richmond, on Monday the twentieth of October, in the year of our Lord one thousand seven hundred and eighty-eight, and in the thirteenth year of the commonwealth.

CHAP. I.

An act for the appointment of electors to choose a President pursuant to the constitution of government for the United States.

[Passed the 17th of November, 1788.]

Electors of
President of
U. States,
chosen by
districts.

I. WHEREAS the United States in congress assembled, did, on the thirteenth day of September, in the year of our Lord, one thousand seven hundred and eighty-eight, resolve that the first Wednesday in January next be the day for appointing electors in the several states, which before the said day shall have ratified the new constitution of government for the United States; that the first Wednesday in February next be the day for the electors to assemble in their respective states, and vote for a President; and that the first Wednesday in March next be the time, and the present seat of congress, the place for commencing proceedings under the said constitution: *Be it therefore enacted by*

the General Assembly, That for the purpose of choosing twelve electors on behalf of this state, to vote for a President in conformity to the constitution of government for the United States, the several counties in this commonwealth shall be allotted into twelve districts, in manner following, to wit: The counties of Amelia, Powhatan, Chesterfield, Cumberland, Brunswick, Greenville, Lunenburg, and Mecklenburg, shall compose one district: The counties of Henrico, Goochland, Louisa, Charles City, James City, and New-Kent, shall compose another district: The counties of Boteourt, Washington, Montgomery, Greenbrier, Augusta, Rockingham, Rockbridge, Russel, Shenandoah, Pendleton, and the district of Kentucky, shall compose another district: The counties of King & Queen, King William, Essex, Caroline, and Hanover, shall compose another district: The counties of Prince William, Fairfax, Loudoun, and Fauquier, shall compose another district: The counties of Westmoreland, King George, Stafford, Lancaster, Richmond, and Northumberland, shall compose another district: The counties of Hampshire, Frederick, Berkeley, Monongalia, Ohio, Hardy, Harrison, and Randolph, shall compose another district: The counties of Norfolk, Nansemond, Accomack, Northampton, and Princess-Anne, shall compose another district: The counties of Sussex, Isle of Wight, Surry, Prince George, Dinwiddie, and Southampton, shall compose another district: The counties of Campbell, Pittsylvania, Charlotte, Halifax, Prince Edward, Bedford, Franklin, and Henry, shall compose another district: The counties of Albemarle, Amherst, Fluvanna, Spotsylvania, Orange, Culpeper, and Buckingham, shall compose another district: And the counties of York, Gloucester, Elizabeth City, Warwick, and Middlesex, shall compose another district:

II. That the persons qualified by law to vote for members to the general assembly, in each county composing a district, shall assemble at their respective courthouses on the first Wednesday in January next, and then and there vote for some discreet and proper person, being a freeholder, and bona fide resident in such district for twelve months, as an elector for such district, to vote for a President of the United States, in conformity to the said constitution.

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III. The high sheriff of each county, or in case of his sickness or inability to attend, one of the deputy sheriffs, being first duly sworn by a magistrate of the county to act impartially, and a certificate of the taking such oath under the hand of the magistrate delivered to him, shall conduct the said election, at which no determination shall be had by view, but each person qualified to vote, shall fairly and publicly poll, and the name of the voter shall be duly entered under the name of the person voted for in proper poll-books to be provided by the sheriff; for which purpose the said sheriff shall appoint so many writers as he shall think fit, who shall respectively take an oath, to be administered by him, or make solemn affirmation, that they will take the poll faithfully and impartially. He shall deliver a poll book to each writer, who shall enter in distinct column, under the name of the person voted for, the name of each voter, voting for such person. Like proclamation and proceeding shall be had for continuing and closing the poll in each county of a district as is prescribed by law, in the election of members to the general assembly and proclamation shall also be made at the court house door of the person having the greatest number of votes on the poll at the closing thereof.

IV. Each voter shall be entitled to the same privilege from arrests, and be subject to the like penalty and forfeiture for failing to attend and vote at such election, as prescribed by law in the election of members to the general assembly, such failure to attend to be discovered and proceeded on in like manner and under the same penalties as is by law prescribed against such failures in the election of members to the general assembly. Immediately after each election in a county, the clerks of the polls having first signed the same, and made oath to the truth thereof (a certificate of which oath under the hand of a magistrate of the county shall be subjoined to each poll) shall deliver the same to the sheriff who conducted the election, and such sheriff, together with the respective sheriffs who conducted the poll of the several counties in the district, except in case of the disability or sickness of such sheriff, then any other sheriff of the county in which such sickness or disability may happen, shall within seven days assemble at the courthouse of the county first named in

such district, and then and there compare the polls respectively taken at the election in their several counties, and having ascertained by faithful addition and comparison of the numbers on the respective polls, the person having the greatest number of votes upon the whole, giving their own votes in any case of the two foremost on such poll having an equal number of votes, shall proceed to certify such elections under their hands and seals in manner and form following, to wit:

"We, A. B. sheriff of _____ county (or deputy sheriff as the case may be,) C. D. sheriff of _____ county, (and so on reciting the name of the sheriff, and whether principal or deputy of each county in the district) composing one entire district entitled by law to appoint an elector to vote for a president of the United States, do hereby certify and make known, that at an election held on _____ at the court-house of our respective counties pursuant to law, the voters qualified to vote for an elector to choose a president of the United States, caused to be chosen one person, to wit: G. H. to represent the said district as an elector to vote for a president of the United States. Given under our hands and seals, this _____ day of _____, one thousand seven hundred and eighty _____."

Two fair duplicates of such certificate and return shall be made by the said sheriffs under their hands and seals, in the manner before recited, one of which shall be delivered to the person elected to represent the district, and the other shall be transmitted to the governor and council within twelve days, under the penalty of one hundred pounds, upon each sheriff holding such election, in case of failure herein, to be recovered by motion in any court of record, by the solicitor general, to the use of the commonwealth. And the governor and council shall thereupon advertise, in the public gazette, the names of the persons so elected, who shall assemble in the city of Richmond on the first Wednesday in February next, and proceed pursuant to the resolution of the federal convention, of the seventeenth of September, in the year of our Lord, one thousand seven hundred and eighty seven, and the provisions, in the constitution of government for the United States, to vote for a president.

V. Each elector chosen pursuant to this act, and failing to attend and vote for a president at the time

and place herein directed, and moreover to send and certify the same in manner directed by the constitution of government, shall, except in cases of sickness or any other unavoidable accidents, forfeit and pay two hundred pounds, to be recovered by the solicitor general, to the use of the commonwealth, by action of debt, bill, plaint or information, in any court of record.

VI. The said sheriffs shall under the penalty of fifty pounds, to be recovered on motion by the solicitor general, to the use of the commonwealth, in manner aforesaid, deliver to the clerks of their respective counties, within ten days after making their returns as aforesaid, the original poll books, to be by such clerk entered of record, under the like penalty for failure as for failing to record the poll books taken at the election of members to the general assembly and recoverable in like manner.

VII. Any sheriff or deputy sheriff refusing to take the poll, when he shall be required by a candidate or person qualified to vote for persons to the general assembly, or taking it in other manner than is herein before prescribed, or making or signing a false certificate or return of election, as herein before directed, or making any erasure or alteration in the poll books, or refusing to suffer any candidate or person qualified to vote, at his own expence to take a copy of the poll books, shall forfeit and pay one hundred pounds, which penalties may be recovered with costs in action of debt, by any person who will sue for the same; one half to his own use, and the other half to the use of the commonwealth.

VIII. Any candidate or other person in his behalf who shall directly or indirectly give or agree to give any voter or pretended voter, money, meat, drink, or other reward. in order to be elected or for having been elected, shall forfeit and pay five hundred pounds for each offence, to be recovered with costs by action of debt, to the use of any person who will prosecute for the same.

IX. *And be it further enacted,* That the electors, so appointed to choose a president, shall be allowed for their travelling expences, five pence per mile, and ferriages, and for their daily attendance ten shillings, and be entitled to the same privileges from arrests as members to the general assembly.

X. *Provided always, and be it further enacted, That the fines and penalties hereby imposed upon sheriffs failing to perform any of the duties prescribed by this act, are declared not to extend to the sheriffs within the district of Kentucky; but such sheriffs shall proceed to execute the same under the best circumstances which the promulgation of this act will admit of.*

CHAP. II.

An act for the election of representatives pursuant to the constitution of government of the United States.

[Passed the 20th of November, 1788]

I. WHEREAS the United States in congress assembled, did, on the thirteenth day of September, one thousand seven hundred and eighty-eight, resolve, that the first Wednesday in January next, be the day for appointing electors in the several states, which before the said day shall have ratified the new constitution of government for the United States; that the first Wednesday in February next be the day for the electors to assemble in their respective states, and vote for a president; and that the first Wednesday in March next be the time, and the present seat of congress the place, for commencing proceedings under the said constitution. And whereas, it is provided by the said constitution, that until the enumeration therein directed shall be taken, Virginia shall be entitled to ten members in the house of representatives, and that the times, places, and manner of holding elections for the same, shall be prescribed by the legislature: *Be it therefore enacted by the General Assembly, That the counties within this commonwealth, shall be divided into ten districts, in manner following, to wit: The counties of Hampshire, Berkeley, Shenandoah, Hardy, Monongalia, Ohio, Randolph, Harrison and Frederick, shall compose one district; The counties of Mercer, Jefferson, Fayette,*

Representatives to congress, under the new constitution, how elected by districts.

Bourbon, Lincoln, Nelson, and Madison, shall compose another district: The counties of Botetourt, Rockbridge, Montgomery, Greenbrier, Washington, Augusta, Russell, Rockingham, and Pendleton, shall compose another district: The counties of Prince-William, Stafford, Loudoun, Fairfax, King-George, and Fauquier, shall compose another district: The counties of Albemarle, Amherst, Fluvanna, Goochland, Louisa, Spotsylvania, Orange, and Culpeper shall compose another district: The counties of Campbell, Charlotte, Buckingham, Bedford, Prince-Edward, Franklin, Henry, Pittsylvania, and Halifax, shall compose another district: The counties of Essex, Richmond, Westmoreland, Northumberland, Lancaster, Gloucester, Middlesex, King and Queen, King William, and Caroline, shall compose another district: The counties of Norfolk, Accomack, Northampton, Princess Anne, Nansemond, Isle of Wight, Surry, and Southampton, shall compose another district: The counties of Brunswick, Sussex, Greensville, Prince-George, Dinwiddie, Mecklenburg, Lunenburg, Amelia, Cumberland, and Powhatan, shall compose another district: And the counties of New Kent, Elizabeth-City, Warwick, York, Charles-City, Chesterfield, Henrico, Hanover, and James-City, shall compose another district.

II. That the persons qualified by law to vote for members to the house of delegates, in each county composing a district, shall assemble at their respective county court-houses on the second day in February next, and then and there vote for some discreet and proper person, being a freeholder, and who shall have been a bona fide resident for twelve months within such district, as a member to the house of representatives for the United States. The high sheriff of each county, or, in case of his sickness or inability to attend, one of the deputy sheriffs, being first duly sworn by a magistrate of the county, to act impartially, and a certificate of the taking such oath, under the hand of the magistrate delivered to him, shall conduct the said election, at which no determination shall be had by view, but each person, qualified to vote, shall fairly and publicly poll, and the name of the voter shall be duly entered under the name of the person voted for, in proper poll books, to be provided by the sheriff, for

which purpose the said sheriff shall appoint so many writers as he shall think fit, who shall respectively take an oath, to be administered by him, or make solemn affirmation, that they will take the poll faithfully and impartially. He shall deliver a poll book to each writer, who shall enter in distinct columns under the name of the person voted for, the name of each elector voting for such person: Like proclamation and proceeding shall be had for conducting, continuing, and closing the poll in each county of a district, as is prescribed by law in the election of members to the general assembly, and proclamation shall also be made at the court-house door, of the person having the greatest number of votes on the poll, at the closing thereof.

III. Each elector shall be entitled to the same privilege from arrests, and be subject to the like penalty and forfeiture for failing to attend and vote at such election, as prescribed by law in the election of members to the general assembly; such failure to attend, to be discovered and proceeded on in like manner and under the same penalties, as is by law provided against such failures in the elections of members to the general assembly. Immediately after each election in a county, the clerks of the polls having first signed the same, and made oath to the truth thereof, (a certificate of which oath under the hand of a magistrate of the county, shall be subjoined to each poll) shall deliver the same to the sheriff who conducted the election, and such sheriff, together with the respective sheriffs who conducted the poll of the several counties in the district, but in case of sickness, death or other disability of the sheriff who shall have conducted the poll, then any other sheriff of the county in which such disability may happen, shall, within seven days, assemble at the court-house of the county first named in such district, and then and there compare the polls respectively taken at the elections in their several counties, and having ascertained by faithful addition and comparison of the numbers on the respective polls, the person having the greatest number of votes upon the whole, giving their own votes in any case of the two foremost on such polls having an equal number of votes, shall proceed to certify such election under their hands and seals in manner and form following, to wit:

“ We, A. B. sheriff of county, (or deputy sheriff, as the case may be) C. D. sheriff of

county (and so on, reciting the name of the sheriff, and whether principal or deputy of each county in the district) composing one entire district, entitled by law to elect a member to the house of representatives of the United States, do hereby certify and make known, that at an election held on _____ at the court-house of our respective counties pursuant to law, the electors qualified to vote for members to the house of delegates, caused to be chosen one person, to wit, E. F. to represent the said district as a member of the house of representatives of the United States. Given under our hands and seals, this _____ day of _____, one thousand seven hundred and eighty _____."

Two fair duplicates of such certificate and return, shall be made by the said sheriffs under their hands and seals in the manner before recited, one of which shall be delivered to the person elected to represent the district, and the other shall be transmitted to the governor and council within ten days, under penalty of one hundred pounds upon each sheriff, in case of failure or neglect herein, to be recovered by motion in any court of record by the solicitor general, to the use of the commonwealth. The said sheriffs shall also under like penalty and recovery deliver to the clerks of their respective counties, within ten days after such return, the original poll books, to be by such clerk entered of record, under the like penalty for failure, as for failing to record the poll books taken at the election of members to the general assembly, recoverable in like manner. It shall be the duty of the executive, to enclose to the congress of the United States, the certificates and returns of elections aforesaid, transmitted to them from the respective districts, without delay.— Any sheriff or deputy sheriff refusing to take the poll when he shall be required by a candidate or elector, or taking it in other manner than is herein before prescribed, or making or signing a false certificate or return of election, as herein before directed, or making any erasure or alteration in the poll books, or refusing to suffer any candidate or elector at his own expence to take a copy of the poll books, shall forfeit and pay two hundred pounds, which penalties may be recovered with costs in actions of debt, by any person who will sue for the same; one half to his own use, and the other half to the use of the commonwealth.

IV. Any candidate or other person in his behalf, who shall directly or indirectly, give or agree to give any elector or pretended elector, money, meat, drink, or other reward, in order to be elected, or for having been elected, shall forfeit and pay five hundred pounds for each offence; to be recovered with costs by action of debt, to the use of any person who will sue for the same.

V. *And be it further enacted*, That the sheriffs of the respective counties, shall receive for their trouble and expense in conducting the said elections, the sum of ten shillings for the day on which they shall attend to compare the different polls, together with an allowance of ferriages, and three pence per mile for travelling to and from the county in which they shall meet for that purpose, to be paid in the same manner as the electors who are to vote for a president of the United States are paid.

VI. *Provided always, and be it further enacted*, That the fines and penalties hereby imposed upon sheriffs, failing to perform any of the duties prescribed by this act, are declared not to extend to the sheriffs within the district of Kentucky; but such sheriffs shall proceed to execute the same, under the best circumstances which the promulgation of this act will admit of.

CHAP. III.

An act appointing commissioners to examine Slate river.

[Passed the 5th of November, 1788.]

BE it enacted by the General Assembly, That Joseph Carrington, Mayo Carrington, William Cannon, Hardin Perkins, Henry Bell, David Bell, and James Couch, gentlemen, or a majority of them, shall, and they are hereby required, to examine the natural and artificial obstructions to the navigation of Slate river, in the county of Buckingham, whether it is practicable to make the same navigable, and to report their proceedings, with their opinion thereon, to the next assembly.

Commissioners appointed to examine Slate river

*An act for dividing the county of
Bourbon.*

[Passed the 5th of November, 1788]

Bourbon
county divi-
ded, and Ma-
son formed.

I. *BE it enacted by the General Assembly, That* from and after the first day of May next, the county of Bourbon shall be divided into two distinct counties, that is to say: All that part of the said county lying north east of a line to begin at the junction of Licking, with the Ohio; thence up the main branch of Licking to the head thereof; thence a direct course to strike the nearest part of Russell county line; thence along the said line to Big Sandy, and down the same to the Ohio river; thence down the Ohio river to the beginning, shall be one distinct county, and called and known by the name of Mason; and the residue of the said county shall retain the name of Bourbon.

II. A court for the said county of Mason shall be held by the justices thereof on the fourth Tuesday in every month, after the said division shall take place, in such manner as is by law provided for other counties, and shall be by their commissions directed.

III. The justices to be named in the commission of the peace for the said county of Mason, shall meet at the house of Robert Ranckin, in the town of Washington, in the said county, on the first court day after the division takes place, and having taken the oath required by law, and administered the oath of office to, and taken bond of, the sheriff, proceed to appoint and qualify a clerk, and fix upon a place for holding courts in the said county, at or as near the centre thereof as the situation and convenience will admit of; and shall thenceforth proceed to erect the necessary public buildings at such place, and until such buildings be completed, to appoint any place for holding courts, as they shall think fit. *Provided always*, that the appointment of a place for holding courts, and of a clerk, shall not be made unless a majority of the justices be present; where such majority shall have been prevented from attending by bad weather, or their being at the time out of the county, in such case the appointments

shall be postponed until some court day, when such majority shall be present.

IV. It shall be lawful for the governor, with advice of the council, to appoint a person to be first sheriff of the said county, who shall continue in office during the term, and upon the same conditions, as is by law directed for other sheriffs. *Provided always*, that nothing herein contained shall be construed to hinder the sheriff of the said county of Bourbon from collecting and making distress for any public dues or officers fees, which shall remain unpaid by the inhabitants thereof, at the time such division shall take place, but he shall collect, distrain, and account for, the same in like manner, as if this act had not been made.

V. The court of the said county of Bourbon shall have jurisdiction of all actions and suits in law and equity, which shall be depending before them, at the time the said division takes place, and try and determine the same, issue process, and award execution thereon.

VI. In all elections of a senator, the said county of Mason shall be of the same district as the said county of Bourbon.

CHAP. V.

An act to establish a town on the lands of Harmon Cook, in the county of Pittsylvania.

[Passed the 6th of November, 1788]

1. *BE it enacted by the General Assembly, That* fifty acres of land, being part of a large tract lying in the county of Pittsylvania the property of Harmon Cook, be, and the same are hereby vested in William Witcher, Samuel Calland, William Ward, Lodowick Tuggle, Peyton Smith, Peterfield Jefferson, and Bryant Ward Nowlin, gentlemen, trustees, to be by them, or a majority of them, laid out into lots of half an acre each, with convenient streets, and established a town by the name of Cooksburg.

Town of
Cooksburg in
Pittsylvania
county esta-
blished.

II. So soon as the said fifty acres of land shall be so laid off into lots and streets, the said trustees, or a majority of them shall proceed to sell the same at public auction, for the best price that can be had, the time and place of which sale shall be previously advertised for two months at the courthouse of the said county, and to convey the said lots to the purchasers in fee, subject to the condition of building on each a dwelling-house sixteen feet square at least, with a brick or stone chimney, to be finished fit for habitation within two years from the day of sale; and to pay the money arising from the sale of the said lots to the said Harmon Cook, or his legal representatives.

III. The said trustees, or a majority of them, shall have power, from time to time, to settle and determine all disputes concerning the bounds of the lots, and establish such rules and orders for the regular building of houses thereon, as to them shall seem best and convenient; and that in case of the death, removal out of the county, or other legal disability, of any one or more of the said trustees, it shall be lawful for the surviving or remaining trustees to elect others in the room of those dead or disabled, who shall be vested with the same power and authority as any other in this act particularly appointed.

IV. The purchasers of lots in the said town, so soon as they shall have built upon and saved the same, according to the conditions of their respective deeds of conveyance, shall be entitled to, and have and enjoy, all the rights, privileges and immunities, that freeholders and inhabitants of other towns in this state, not incorporated hold and enjoy.

V. If the purchaser of any lot shall fail to build thereon within the time before limited, the trustees, or a majority of them, may thereupon enter into such lot, and sell the same again, and apply the money for the benefit of the inhabitants of the said town.

CHAP. VI.

*An act for adding trustees to the
Randolph academy.*

[Passed the 6th of November, 1788.]

BE it enacted by the General Assembly, That Isaac Zane, John Hadden, Abraham Claypoole, James Westfall, Henry Fink, John Prunty, Daniel Davison, Hezekiah Davison, Joseph Hastings, John M. Calley, Samuel Hanway, Francis T. Brooke, Henry Dearing, Joseph Jenkins, Zachariah Sprigg, David Shepherd, John Caldwell and George M. Cullock, gentlemen, shall be, and they are hereby constituted, trustees of the Randolph academy, in addition to those appointed by the act, intituled, "An act for establishing an academy and incorporating the trustees thereof," and shall have the same power and authority, as if they had been particularly named in the said recited act.

Additional
trustees of
Randolph A.
cademy.

CHAP. VII.

*An act for adding trustees to the town
of Greenville, in the county of
Buckingham.*

[Passed the 7th of November, 1788.]

I. BE it enacted by the General Assembly, That John Cabell, John Mosely, William Perkins, junior, Josias Jones, William Cannon, David Coupland, John Johns, David Bell, and Joseph Cabell, junior, gentlemen, be, and they are hereby constituted and appointed, trustees of the towp of Greenville, in the county of Buckingham, in addition to those appointed by the act, intituled, "An act to establish a town at the courthouse in the county of Buckingham," and

Additional
trustees to
town of
Greenville.

shall have the same power and authority, as any one particularly nominated in the said act.

II. *Provided always, and be it further enacted, That* a majority of the whole number of trustees shall be necessary to carry into effect the said recited act.

CHAP. VIII.

An act authorising the sale of lands in the county of Albemarle, in certain cases.

[Passed the 11th of November, 1788.]

Lands liable to taxes, in Albemarle, during sheriffalty of John Marks, how sold.

WHEREAS it is represented to this present general assembly, that John Marks, sheriff of the county of Albemarle, in the years, one thousand seven hundred and eighty six, and one thousand seven hundred and eighty seven, did some time within those years, remove to the state of Georgia, whereby no sale of lands could legally be made to discharge the taxes due thereon, and his deputy sheriffs and their securities are thereby involved in difficulty and distress: For remedy whereof, *Be it enacted, That* William Clarke shall be, and he is hereby, authorised and required to sell and convey so much of the lands in the said county, whereon sufficient distress cannot be made for that purpose, as will discharge the taxes respectively due for such lands in the years aforesaid, in like manner, and under the same rules, allowance, regulations and restrictions, as directed and prescribed by law for high sheriffs.

CHAP. IX.

*An act for establishing an inspection
of tobacco, on the lands of John
M'Crae in the county of Prince
William.*

[Passed the 11th of November, 1788.]

I. *BE it enacted by the General Assembly, That* ^{M'Crae's} ^{warehouse in} ^{Prince Wil-} ^{liam esta-} ^{blished.} an inspection of tobacco shall be, and the same is hereby established, on three acres of land, the property of John M'Crae, gentleman, at a place called Rocks on Quantico creek, near the town of Dumfries, and to include the landing below the Rocks, which is hereby appropriated for that special purpose, to be called and known by the name of M'Crae's warehouse.

II. There shall be allowed and paid annually to each of the inspectors at the said warehouse, the sum of sixty pounds for their salary. *Provided nevertheless,* That the proprietor of the said warehouse shall before the building thereof, enter into bond with sufficient security, in the penalty of two thousand pounds. in the court of the county of Prince William, with condition that he will not suffer any dwelling-house or storehouse with a fire-place to be built on his own lands within one hundred yards of the said warehouse.

 CHAP. X.

*An act for dividing the county of
Fayette into two distinct counties.*

[Passed the 12th of November, 1788.]

I. *BE it enacted by the General Assembly, That* ^{Fayette coun-} ^{ty divided, &} ^{Woodford} from and after the first day of May next, the county of Fayette shall be divided into two distinct counties, that ^{formed}

is to say: All that part of the said county lying westward of a line to begin one mile and an half above Todd's ferry, on Kentucky river; thence a direct line to the eight mile tree on the Leestown road; thence a direct course crossing the North-fork of Elkhorne, four miles on a straight line below William Russel's; thence the same course continued to the line of Bourbon county; thence with the Bourbon line to the mouth of Licking; thence down the Ohio to the mouth of Kentucky river; thence up the river to the beginning, shall be one distinct county, and called and known by the name of Woodford; and the residue of the said county shall retain the name of Fayette.

II. A court for the said county of Woodford shall be held by the justices thereof on the first Tuesday in every month after such division shall take place, in like manner as is provided by law for other counties, and shall be by their commissions directed.

III. The justices to be named in the commission of the peace for the said county of Woodford, shall meet at the house of Caleb Wallace, esquire, in the said county, upon the first court day after the said division takes place, and having taken the oaths prescribed by law, and administered the oath of office to, and taken bond of, the sheriff, according to law, proceed to appoint and qualify a clerk, and fix upon a place for holding courts in the said county at or as near the centre thereof as the situation and convenience will admit of; and thenceforth the said court shall proceed to erect the necessary public buildings at such place, and until such buildings be completed, to appoint any place for holding courts as they shall think proper. *Provided always*, That the appointment of a place for holding courts, and of a clerk, shall not be made, unless a majority of the justices of the said county be present; where such majority shall have been prevented from attending by bad weather, or their being at the time out of the county, in such case the appointment shall be postponed until some court day, when a majority shall be present.

IV. The governor with advice of the council, shall appoint a person to be first sheriff of the said county, who shall continue in office during the term, and upon the same conditions, as are by law appointed for other sheriffs.

V. *Provided also, and be it further enacted*, That it shall be lawful for the sheriff of the said county of Fayette, to collect and make distress for any public dues and officers fees, which shall remain unpaid by the inhabitants thereof at the time the said division takes place, and shall be accountable for the same in like manner, as if this act had not been made.

VI. The court of the said county of Fayette shall have jurisdiction of all actions and suits which shall be depending before them at the time of the said division, and shall try and determine the same, and award execution thereon.

VII. In all future elections of a senator, the said county of Woodford shall be of the same district as the county of Fayette.

CHAP. XI.

An act for establishing a town, and an inspection of tobacco, on the lands of Nicholas Cabell in the county of Amherst.

[Passed the 13th of November 1788]

I. *Be it enacted by the General Assembly*, That twenty acres of land lying on the north side of James river, a little below the mouth of Swann creek, in the county of Amherst, the property of Nicholas Cabell, gentleman, be, and they are hereby, vested in William Cabell, John Rose, Henry Martin, Patrick Rose, William Loving, Samuel Jordan Cabell, Charles Rose, William Cabell, junior, Clough Shelton, Abraham Warwick, William Bibb, and John Howard, junior, gentlemen, trustees, to be by them, or a majority of them, laid off into lots of half an acre each, with convenient streets, and established a town by the name of Warminster.

Town of War-
rington in
Amherst
county esta-
blished.

II. So soon as the said land shall be laid off into lots and streets, the trustees, or a majority of them, shall proceed to sell the same at public auction, for the best price that can be had, the time and place of which sale being previously advertised at the courthouse of the said county, on three successive court days, and convey the said lots to the purchasers in fee, subject to the condition of building on each a dwelling-house sixteen feet square, with a brick or stone chimney, to be finished fit for habitation within three years from the day of sale; and to pay the money arising from the sale of the said land to the said Nicholas Cabell, or his legal representatives.

III. The said trustees, or a majority of them, shall have power from time to time, to settle and determine all disputes concerning the bounds of the lots, and to establish such rules for the regular building of houses thereon, as to them shall seem best and most convenient.

IV. In case of the death, or other legal disability, of any one or more of the said trustees, it shall be lawful for the remaining trustees to elect others in their room, and the person so elected shall have the same power and authority, as if particularly named in this act.

V. The purchasers of lots in the said town, so soon as they shall have built upon and saved the same, according to the conditions of their respective deeds of conveyance, shall then be entitled to, and have and enjoy, all the rights, privileges, and immunities, which the freeholders and inhabitants of other towns in this state, not incorporated, hold and enjoy.

VI. If the purchaser of any lot shall fail to build thereon within the time before limited, the said trustees, or a majority of them, may thereupon enter into such lot and sell the same again, and apply the money for the benefit of the inhabitants of the said town.

Swann Creek
warehouse
established.

VII. And whereas it is represented that it would be of great utility and a public convenience to establish an inspection of tobacco on the lands of the said Nicholas Cabell, on the north side of James river, the proprietor whereof is willing to build the same at his own expence; *Be it therefore enacted*, that an inspection of tobacco shall be, and the same is hereby, established on the lands of the said Nicholas Cabell, adjoining to the said town of Warminster, on the north

side of James river, in the county of Amherst, to be called and known by the name of Swann creek warehouse.

VII. There shall be allowed and paid annually to each of the inspectors at the said warehouse, the sum of forty pounds for their salary. The inspectors at the said warehouse upon the delivery of their notes, or an order where they have not issued notes, shall deliver the tobacco for transportation with a manifest for the same, expressing the owners name, the name of the skipper of the batteau or canoe, with the marks, numbers, and weights, of the tobacco, and stamped with the name of the warehouse; which tobacco, with the manifest, shall be delivered to the inspectors at either Byrd's, Shockoe, Rocketts, Manchester, or Rocky Ridge, who are hereby required to receive the same, and enter the said tobacco, agreeable to the manifest, in books to be by them provided and kept for that purpose, and grant their receipts for the same, to the owners thereof, to be delivered for exportation when required.

VIII. The inspectors at the last mentioned warehouses, are hereby empowered to examine and weigh any tobacco to them delivered, when required by the owner thereof, and if found to be damaged or embezzled, the same shall not be entered in the books, but remain in the warehouse, subject to the directions of the owners, in like manner as other damaged tobacco.—*Provided nevertheless*, That nothing herein contained shall be construed to prevent the owner of any tobacco, inspected at the said warehouse, from shipping the same, without its being delivered, or re-inspected at, any other warehouse.

IX. *And be it further enacted*, That the inspectors at each of the said warehouses of Byrd's, Shockoe, Rocketts, Manchester, or Rocky Ridge, shall demand and receive for all tobacco brought to the said warehouses by virtue of this act, the same warehouse rent, as is allowed for tobacco reloaded from on board any vessel, to be appropriated in the manner directed by law for the appropriation of the rent of such reloaded tobacco. The impost and duty on tobacco inspected at the said warehouse shall be the same, and collected, accounted for, and paid, in like manner, and under

the like penalties, as is directed and prescribed by law for other tobacco inspections.

X. *And be it further enacted*, That when it shall appear to the court of Amherst county, that a sufficient number of houses are built agreeable to law at the said inspection, for the reception of tobacco, they shall then proceed to recommend fit persons to serve as inspectors at the said inspection.

XI. *Provided always, and be it further enacted*, That if the quantity of tobacco inspected at the said warehouse, shall not be sufficient to pay the usual charges and the inspectors salaries, the deficiency shall not be paid by the public. *And provided also*, that no person shall be obliged to receive any notes in payment for tobacco passed at the said warehouse, in discharge of any tobacco contract heretofore entered into.

CHAP. XII.

An act to prevent the importation of convicts into this commonwealth.

[Passed the 13th of November, 1798.]

Importation
of convicts
prohibited.

I. WHEREAS it has been represented to this general assembly by the United States in congress, that a practice has prevailed, for some time past, of importing felons convict into this state, under various pretences, which said felons convict so imported have been sold and dispersed among the people of this state, whereby much injury hath been done to the morals, as well as the health, of our fellow-citizens: For remedy whereof, *Be it enacted*, that from and after the first day of January next, no captain or master of any vessel, or any other person, coming into this commonwealth, by land or by water, shall import, or bring with him, any person who shall have been a felon convict, or under sentence of death, or any other legal disability incurred by a criminal prosecution, or who shall be delivered to him from any prison or place of confinement, in any place out of the United States.

II. *And be it further enacted*, That every captain or master of a vessel, or any other person, who shall presume to import, or bring into this commonwealth, by land or by water, or shall sell or offer for sale, any such person as above described, shall suffer three months imprisonment, without bail or mainprize, and forfeit and pay for every such person so brought and imported, or sold or offered for sale, the penalty of fifty pounds current money of Virginia, one half to the commonwealth, and the other half to the person who shall give information thereof; which said penalty shall be recovered by action of debt or information, in any court of record, in which the defendant shall be ruled to give special bail.

CHAP. XIII.

An act to amend the act intituled An act appropriating certain public taxes, to the opening a waggon road from the state road, to the mouth of the little Kanawha, and for other purposes.

[Passed the 13th of November, 1788]

I. WHEREAS it is represented that the public taxes arising within the counties of Harrison and Randolph, for the year one thousand seven hundred and eighty-seven, which were appropriated by an act of the October session, one thousand seven hundred and eighty-six, towards opening a waggon road from the state road, to the mouth of the little Kanawha, have proved inadequate to that purpose; and the commissioners have made application to this present assembly, to appropriate so much of the taxes for the years, one thousand seven hundred and eighty-eight, and one thousand seven hundred and eighty-nine, arising within the said counties, as shall be sufficient, not exceeding the ori-

Further appropriation of taxes for opening a road from the state road to the mouth of the little Kanawha.

ginal appropriation of two thousand pounds; *Be it therefore enacted*, That the public taxes to be collected in the said counties, for the years one thousand seven hundred and eighty-eight, and one thousand seven hundred and eighty-nine, shall be applied towards opening the said road, under the direction of the commissioners aforesaid, in such manner as shall seem best to promote the public interest. *Provided*, That the certificates to be granted pursuant to this and the said recited act, shall not exceed the said sum of two thousand pounds, nor shall the sheriffs of the said counties be allowed in the settlement of their accounts with the public, for more certificates than the amount of that sum.

II. All proceedings against the sheriffs of the said counties of Harrison and Randolph, respecting the said taxes, shall be suspended until the first day of October, one thousand seven hundred and ninety.

CHAP. XIV.

An act for forming a new county out of the counties of Greenbrier and Montgomery.

[Passed the 14th of November 1788]

Kanawha
county form-
ed out of
Greenbrier &
Montgomery

I. *BE it enacted by the General Assembly*, That from and after the first day of October next, those parts of the counties of Greenbrier and Montgomery, within the following bounds, to wit; beginning at the mouth of Great Sandy in the said county of Montgomery; thence up the said river with the line of the said county to the mountain generally known by the name of Cumberland mountain; thence a north east course along the said mountain to the Great Kanawha, crossing the same at the end of Gawly mountain; thence along the said mountain to the line of Harrison county; thence with that line to the Ohio river; thence down the said river, including the islands thereof to the be-

ginning; shall form one distinct county, and be called and known by the name of Kanawha.

II. A court for the said county of Kanawha, shall be held by the justices thereof on the first Monday in every month, after the same shall take place, in like manner as is provided by law for other counties, and shall be by their commissions directed.

III. The justices to be named in the commission of the peace for the said county of Kanawha, shall meet at the house of William Clendinen in the said county, upon the first court day after the said county shall take place, and having taken the oaths prescribed by law, and administered the oath of office to, and taken bond of, the sheriff, according to law, proceed to appoint and qualify a clerk, and fix upon a place for holding courts in the said county, at or as near the centre thereof as the situation and convenience will admit; and thenceforth the said court shall proceed to erect the necessary public buildings at such place; and until such buildings be completed, to appoint any place for holding courts, as they shall think proper. *Provided always*, That the appointment of a place for holding courts, and of a clerk, shall not be made unless a majority of the justices of the said county be present; where such majority shall have been prevented from attending by bad weather, or their being at the time out of the county, in such case the appointment shall be postponed until some court day, when a majority shall be present.

IV. *Provided also, and be it further enacted*, That it shall be lawful for the sheriffs of each of the said counties of Greenbrier and Montgomery, to collect and make distress for any public dues and officers fees, remaining unpaid by the inhabitants thereof at the time the said county shall take place, and shall be accountable for the same in like manner, as if this act had not been made.

V. The governor, with advice of the council, shall appoint a person to be first sheriff of the said county, who shall continue in office during the term, and upon the same conditions, as are by law appointed for other sheriffs.

VI. The courts of the said counties of Greenbrier and Montgomery shall have jurisdiction of all actions and suits, which shall be depending before them at the

time the said county of Kanawha shall take place, and shall try and determine the same, and award execution thereon.

VII. In all future elections of a senator, the said county of Kanawha shall be of the same district as the said county of Greenbrier.

CHAP. XV.

An act for establishing a town near Chester's Gap, in the county of Frederick.

[Passed the 15th of November, 1788]

Town of
Frontroyal, in
Frederick
county esta-
blished.

I. *BE it enacted by the General Assembly, That* fifty acres of land near Chester's gap, in the county of Frederick, the property of Solomon Vanmeter, James Moore, Robert Haines, William Cunningham, Peter Halley, Original Wroe, John Smith, Allen Wiley, George Chick, William Miller, William Morris, and Henry Trout, shall be, and the same are hereby, vested in Thomas Allen, Robert Russel, William Jennings, William Headley, John Hickman, Thomas Hand, and Thomas Buck, gentlemen, trustees, to be by them, or a majority of them, laid out into lots of half an acre each, with convenient streets, and established a town, by the name of Frontroyal.

II. As soon as the said fifty acres of land shall be so laid off into lots and streets, the said trustees, or a majority of them, shall proceed to sell the same, at public auction, for the best price that can be had, the time and place of which sale being previously advertised for two months at the courthouse of each of the said counties of Frederick and Shenandoah; the purchasers to hold the said lots respectively subject to the condition of building on each a dwellinghouse containing sixteen feet square at least, with a brick or stone chimney, to be finished fit for habitation within two years from the day of sale; and to convey the said lots

to the purchasers in fee, subject to the condition aforesaid, and pay the money arising from the sale thereof to the said Solomon Vanmeter, James Moore, Robert Haines, William Cunningham, Peter Halley, Original Wroe, John Smith, Allen Wiley, George Chick, William Miller, William Morris, and Henry Trout, or their respective legal representatives.

III. The said trustees, or a majority of them, shall have power, from time to time, to settle and determine all disputes concerning the bounds of the said lots, and to settle such rules and orders for the regular building of houses thereon, as to them shall seem best; and in case of the death, removal out of the county, or other disability, of any of the said trustees, it shall be lawful for the others to supply such vacancy, and the trustees so chosen shall, to all intents and purposes, be vested with the same powers as those particularly named in this act.

IV. The purchasers of lots in the said town, so soon as they shall have built upon and saved the same, according to the conditions of their respective deeds, shall be entitled to, and have and enjoy, all the rights, privileges, and immunities, which the freeholders and inhabitants of other towns in this state, not incorporated, hold and enjoy. If the purchaser of any lot shall fail to build thereon within the time before limited, the said trustees, or a majority of them, may thereupon enter into such lot, and sell the same again, and apply the money for the benefit of the inhabitants of the said town.

CHAP. XVI.

An act for establishing a town on the lands of William Anderson in the county of Botetourt.

[Passed the 15th of November, 1788.]

I. *BE it enacted by the General Assembly, That* fifty acres of land, the property of William Anderson, lying at Anderson's ferry, in the county of Botetourt, *shall be*

Town of Pat-
tersonburg, in
Botetourt
county estab-
lished.

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be, and they are hereby, vested in George Skillern, John Preston, Francis Preston, Joseph Paxton, John Cartmeil, and Joseph Paxton, junior, gentlemen, trustees, to be by them, or a majority of them, laid out into lots of half an acre each, with convenient streets, and established a town by the name of Pattonsburg.

II. That so soon as the said fifty acres of land shall be so laid off into lots and streets, the said trustees, or a majority of them, shall proceed to sell the same, at public auction, for the best price that can be had, the time and place of which sale to be previously advertised for two months at the courthouse of the said county; the purchasers to hold the said lots respectively subject to the condition of building on each a dwelling-house sixteen feet square at least, with a brick or stone chimney, to be finished fit for habitation within three years from the day of sale; and the said trustees, or a majority of them, shall convey the said lots to the purchasers in fee, subject to the condition aforesaid, and pay the money arising from the sale thereof to the said William Anderson, or his legal representatives.

III. The said trustees, or a majority of them, shall have power, from time to time, to settle and determine all disputes concerning the bounds of the said lots, and to establish such rules and orders for the regular building of houses thereon, as to them shall seem best; and in case of the death, removal out of the county, or other legal disability, of any one or more of the said trustees, it shall be lawful for the remaining trustees to choose others in the room of those so dead, or disabled, and the persons so chosen shall, to all intents and purposes, be vested with the same power and authority, as any other in this act particularly appointed.

IV. The purchasers of lots in the said town, so soon as they shall have built upon and saved the same, according to the conditions of their respective deeds of conveyance, shall then be entitled to, and have and enjoy, all the rights, privileges, and immunities, which the freeholders and inhabitants of other towns in this state, not incorporated, hold and enjoy.

V. If the purchaser of any lot shall fail to build thereon within the time before limited, the said trustees, or a majority of them, may thereupon enter into such lot, and sell the same again, and apply the money for the benefit of the inhabitants of the said town.

CHAP. XVII.

An act for establishing a town on the lands of William Crow, in the county of Botetourt.

[Passed the 15th of November, 1788]

I. *BE it enacted by the General Assembly, That* forty acres of land, whereon William Crow now lives, lying at his ferry on the south side of James river, in the county of Botetourt, shall be, and they are hereby, vested in Archibald Stuart, George Hancock, Thomas Rowland, John Wood, Henry Bowyer, Patrick Lockhart, and Matthew Wilson, gentlemen, trustees, to be by them, or a majority of them, laid out into lots of half an acre each, with convenient streets, and established a town, by the name of Crowsville.

Town of
Crowsville in
Botetourt
county estab-
lished.

II. So soon as the said forty acres of land shall be so laid off into lots and streets, the said trustees, or a majority of them, shall proceed to sell the same, at public auction, for the best price that can be had, the time and place of which sale to be previously advertised for six months in the Virginia Gazette, and at the courthouse of the said county; the purchasers to hold the said lots respectively subject to the condition of building on each a dwelling-house sixteen feet square at least, with a brick or stone chimney, to be finished fit for habitation within three years from the day of sale; and the said trustees, or a majority of them, shall convey the said lots to the purchasers in fee, and the money arising from the sale of the said lots, shall remain in the hands of the said trustees, subject to the discharge of a mortgage made by the said William Crow, of the aforesaid lands, to certain British subjects.

III. The said trustees, or a majority of them, shall have power, from time to time, to settle and determine all disputes concerning the bounds of the said lots, and to establish such rules and orders for the regular building of houses thereon, as to them shall seem best; and in case of the death, removal out of the county, or other legal disability, of any one or more of the said trustees, it shall be lawful for the remaining trustees, to

choose others in the room of those so dead, or disabled, and the persons so chosen shall, to all intents and purposes, be vested with the same power and authority, as any one in this act particularly appointed.

IV. The purchasers of lots in the said town, so soon as they shall have built upon and saved the same, according to the conditions of their respective deeds of conveyance, shall then be entitled to, and have and enjoy, all the rights, privileges, and immunities, which the freeholders and inhabitants of other towns in this state, not incorporated, hold and enjoy.

V. If the purchaser of any lot, shall fail to build thereon, within the time before limited, the said trustees, or a majority of them, may thereupon enter into such lot, and sell the same again, and apply the money for the benefit of the inhabitants of the said town.



CHAP. XVIII.

An act for incorporating an academy, in the county of Nelson.

[Passed the 15th of November, 1788]

Salem academy, at Baird's town, Nelson county, Kentucky, established.

I. WHEREAS it is represented to this present general assembly, That many persons would make considerable donations to the seminary of learning at the place called Baird's town, in the county of Nelson, was a law to pass for incorporating the same: *Be it therefore enacted*, That from and after the passing of this act, the said seminary shall obtain the name of Salem Academy, and that John Caldwell, Andrew Hynes, Isaac Morrison, Tarab Templin, Matthew Walton, John Steele, Philp Philips, Walter Beall, George Harrison, James Baird, Joseph Barnet, James Morrison, James Allen, Cuthbert Harrison, and William Taylor, gentlemen, be, and they are hereby, constituted, a body politic and corporate, by the name of the trustees of Salem academy, and shall have perpetual succession and a common seal, and shall have power and capacity to purchase, receive, and possess lands and tenements,

goods and chattels, either in fee or any lesser estate therein, and the same to grant, let, sell, or assign, and to plead or be impleaded, prosecute and defend, all causes in law or equity.

II. The said trustees, or a majority of them, when assembled, shall have power to make such bye-laws and ordinances, as they shall think best for the good government of the said academy, and to perform and do any thing respecting the property vested therein: *Provided* such bye-laws and ordinances shall not be contrary to the laws and constitution of this commonwealth.

III. They shall choose a president and secretary out of their own body; and in case of vacancy by death, or otherwise, of any one or more of the said trustees, the same shall be supplied by a majority of the remaining trustees.

CHAP. XIX.

An act for establishing an inspection of tobacco, on the lands of Isaac Ruddle, in the county of Bourbon.

[Passed the 18th of November, 1788]

I. *BE it enacted by the General Assembly, That an inspection of tobacco shall be, and the same is hereby, established on the lands of Isaac Ruddle, at the confluence of Stoner's and Hinkson's forks of Licking creek, in the county of Bourbon, to be called and known by the name of Ruddle's warehouse.*

Ruddle's
warehouse in
Bourbon
county estab-
lished.

II. *And be it further enacted, That it shall not be lawful for the said Isaac Ruddle, or any other person, to build any dwelling-house, or other house, in which fire shall be at any time used, within fifty yards of the said warehouse.*

III. *There shall be allowed and paid annually to each of the inspectors, at the said warehouse, the sum of thirty pounds for their salary. Provided always, that if the quantity of tobacco inspected at the said*

warehouse, shall not be sufficient to pay the usual charges, and the inspectors salaries, the deficiency shall not be paid by the public.

IV. The court of the county of Bourbon, shall, as soon as the said warehouses are built, nominate four persons to execute the office of inspectors at the said warehouses, two of whom shall be commissioned as inspectors, and a third as additional inspector, in like manner as the inspectors at other warehouses within this commonwealth. The said inspectors shall enter into the same bonds, be subject to the penalties, and in all respects be governed by the rules and regulations prescribed by the laws now in force for regulating the inspection of tobacco, and the exportation thereof.



CHAP. XX.

An act for giving further time to the owners of surveys to return the plats and certificates thereof into the land office.

[Passed the 21st of November, 1788]

Further time
allowed to re-
turn plats and
certificates of
survey to the
land office.

I. WHEREAS the law authorizing the register of the land office, to receive into his office plats and certificates of surveys that have been or shall be made, will expire on the last day of December, one thousand seven hundred and eighty-eight, and it is represented to this general assembly that many persons through unavoidable accidents have been prevented from returning their plats and certificates aforesaid, to the register of the land office, whereby their lands may be forfeited: For remedy whereof, *Be it enacted by the General Assembly*, That the further time of two years, after the passing of this act, shall be allowed for returning the same, within which time the register of the land office, or his deputy, shall receive all plats and certificates of survey, although not returned within the time heretofore limited by law; and such lands shall

not be considered as forfeited, or liable to forfeiture, on that account.

II. And whereas by an act passed in the year, one thousand seven hundred and eighty-six, intituled "An act for reviving, continuing, and amending an act, to revive and amend in part an act for giving further time to enter certificates for settlement rights, and for locating warrants upon pre-emption rights, and for other purposes," the owners of entries and surveys on the eastern waters were required to survey the said entries and return the said surveys on or before the first day of October, one thousand seven hundred and eighty-eight, and it is expedient that a further time should be allowed them to comply with the requisitions of the said act: *Be it therefore enacted by the General Assembly*, That so much of the said recited act, as relates to the entries and surveys of lands on the eastern waters, shall continue and be in force until the thirty-first day of December, one thousand seven hundred and ninety.

CHAP. XXI.

An act giving further time to the owners of entries on the western waters to survey the same.

[Passed the 21st of November, 1788.]

I. WHEREAS the act passed in the year of our Lord, one thousand seven hundred and eighty-five, intituled "An act to repeal an act, intituled an act concerning entries and surveys on the western waters, and for other purposes," directed that owners of entries on the western waters should appoint agents or attorneys in each county where such entries were made, and notify such appointments to the principal surveyor of the county, by the first day of February, one thousand seven hundred and eighty-seven, and declared that on failure thereof such entries should be void.

Further time allowed to survey entries for land on the western waters.

II. And whereas by an act passed in the year of our Lord, one thousand seven hundred and eighty-six, it was declared that no entry should be forfeited under the above recited act, for and during the term of two years, which will expire during the present session of assembly, and it is expedient that the same should be further continued: *Be it therefore enacted by the General Assembly*, That the further time of two years, shall be allowed to the owners of entries on the western waters to comply with the requisitions of the above recited act, during which time no such entry shall be forfeited.



CHAP. XXII.

An act to alter the court day of the county of Madison, and for altering the court of quarter session, in the county of Pendleton.

[Passed the 21st of November, 1788.]

Court day of
Madison, and
quarter ses-
sion of Pen-
dleton alter-
ed.

I. *BE it enacted by the General Assembly*, That the court for the county of Madison, shall, from and after the first day of February next, be held on the first Tuesday in every month; any law to the contrary notwithstanding.

II. *And be it further enacted*, That the court of quarter session for the county of Pendleton, heretofore held in the month of November, shall, from and after the first day of May next, be held in the month of December annually; any law to the contrary notwithstanding.

CHAP. XXIII.

An act to repeal part of an act, directing the trial of slaves committing capital crimes, and for the more effectual punishing conspiracies and insurrections of them, and for the better government of negroes, mulattoes, or indians, bond or free.

[Passed the 21st of November, 1788.]

BE it enacted, That so much of an act, intituled “An act directing the trial of slaves committing capital crimes, and for the more effectual punishing conspiracies and insurrections of them, and for the better government of negroes, mulattoes, and Indians, bond or free,” as declares, that “Where any slave shall happen to die by reason of any stroke or blow during his or her correction, by his or her owner, or by reason of any accidental blow whatsoever given by such owner, no person concerned in such correction or accidental homicide, shall be liable to any prosecution, or punishment for the same, unless upon examination before the county court, it shall be proved by the oath at least of one lawful and credible witness, that such slave was killed wilfully, maliciously, or designedly; and no person indicted for the murder of a slave, and upon trial found guilty of man-slaughter only, shall incur any forfeiture or punishment for such offence or misfortune;” shall be, and the same is hereby repealed.

Act, declaring the killing of a slave, by correction, to be manslaughter only, repealed.

CHAP. XXIV.

An act to repeal an act, intituled An act to vest certain escheatable property in the children of William Short, deceased.

[Passed the 24th of November, 1788]

WHEREAS it was represented to the general assembly, in the year of our Lord, one thousand seven

Act vesting certain escheatable property in the children of Wm Short repealed.

hundred and eighty-two, that a certain George Ker had died intestate, possessed of sundry slaves, which had become escheatable to the commonwealth, the heir at law of the said George Ker having, previous to the late war, removed himself to some part of the British dominions, and not having then returned; in consequence whereof, an act was passed for vesting all the slaves whereof the said George Ker, died possessed, in the children of William Short, deceased. And whereas Edward Ker, junior, the heir at law of the said George Ker, deceased, has lately returned to this commonwealth, and it is just that the above-mentioned act should be repealed, that the said Edward Ker, junior, may be at full liberty to prosecute his right to the slaves therein mentioned: *Be it therefore enacted by the General Assembly,* That the act passed in the year of our Lord, one thousand seven hundred and eighty two, intituled "An act to vest certain escheatable property in the children of William Short, deceased," shall be, and the same is hereby repealed.

CHAP. XXV.

An act establishing a town on the lands of David Ross, at the Point of Fork.

[Passed the 25th of November, 1788,]

Town of Columbia, at Point of Fork, in Fluvanna county established.

1. *BE it enacted by the General Assembly,* That one hundred and fifty acres of land, at the confluence of the Fluvanna and Rivanna rivers, commonly called the Point of Fork, the property of David Ross, shall be, and they are hereby, vested in Thomas Pleasants, senior, Thomas Fleming Bates, Robert Lewis, senior, George Thompson, Tunstall Quarles, Samuel Richardson, and Duncan M'Lauchlan, gentlemen, trustees, to be by them, or any four of them, laid off into lots, with convenient streets. and shall be established a town, by the name of Columbia.

II. So soon as the said one hundred and fifty acres of land shall be so laid off into lots and streets, the said trustees, or a major part of them, shall proceed to sell the lots, at public auction, on terms to be prescribed by the proprietor, for the best price that can be had, the time and place of which sale shall be previously advertised for two months at the doors of the court-houses of Fluvanna and Goochland counties. The purchasers of the said lots respectively shall hold the same, subject to the condition of building on each a dwelling-house sixteen feet square at the least, with a brick or stone chimney, to be finished fit for habitation within four years from the day of sale. The said trustees, or a major part of them, shall convey the said lots to the purchasers in fee-simple, subject to the condition aforesaid, and shall pay the money or bonds arising from the sale thereof, to the said David Ross, or his legal representatives.

III. The said trustees, or a major part of them, shall have power to settle and determine from time to time, all disputes concerning the bounds of the said lots, and to make such regulations for the regular building of houses thereon, as to them shall seem most proper.

IV. In case of the death, removal out of the counties of Goochland or Fluvanna, or other disability, of any of the said trustees, it shall be lawful for the others to supply such vacancy, and the persons so chosen, shall have the same power and authority, as those named in this act.

V. The purchasers of the lots, when they shall have built upon the same, according to the conditions of their deeds, shall have the same rights, privileges, and immunities, that the inhabitants of other towns within this commonwealth, not incorporated, hold and enjoy.

VI. If the purchaser of any lot shall fail to build thereon, according to the condition of his deed, the trustees, or a major part of them, may thereupon enter into such lot, and sell the same again, and apply the money arising therefrom, in such manner as shall appear most advantageous to the said town. *Provided always*, That nothing herein contained, shall be construed or taken to give the said trustees a power to dispose of such lots of the said one hundred and fifty acres, as have been laid out and built upon by the present proprietor.

CHAP. XXVI.

An act for establishing a town on the lands of Willoughby Tebbs, in the county of Prince William.

[Passed the 27th of November, 1788.]

Town of
Carrborough,
in Prince
William
county estab-
lished.

I. *BE it enacted by the General Assembly, That* fifty acres of land, lying on the south side of the mouth of Quantico creek, and on Potowmack river, in the county of Prince William, the property of Willoughby Tebbs, so soon as he shall lay off the same into lots of half an acre each, with convenient streets, be established a town, and called and known by the name of Carrborough. That Cuthbert Bullit, William Carr, John Hedges, Spence Grayson, John Linton, William Linton, William Grayson, Burr Harrison, and John Cannon, gentlemen, are hereby constituted trustees of the said town, who, or a majority of them, shall, from time to time, settle and determine all disputes concerning the bounds of the lots, and have power to establish such rules and orders for the regular building of houses thereon, as to them shall seem best.

II. In case of the death, removal out of the county, or other legal disability, of any one or more of the said trustees, it shall be lawful for the remaining trustees to elect others in their stead, who shall be vested with the same power and authority as any one in this act particularly appointed.

III. *And be it further enacted, That* so soon as the purchasers of lots in the said town shall have built thereon a dwelling house sixteen by twelve feet, with a brick or stone chimney, they shall respectively be entitled to, and have and enjoy all the rights, privileges, and immunities, which the freeholders and inhabitants of other towns, in this state not incorporated, hold and enjoy.

CHAP. XXVII.

*An act for incorporating an academy,
in the county of Fauquier.*

[Passed the 28th of November, 1788]

I. FOR incorporating the academy at or near the courthouse, in the county of Fauquier, *Be it enacted by the General Assembly*, That William Edmonds, Martin Picket, Francis Whiting, Elias Edmonds, Edward Digges, Thomas Digges, Gustavus Browne Horner, William Picket, Humphrey Brooke, and William Stuart, gentlemen, and those hereafter to be elected, and their successors for ever, are hereby made and constituted a body corporate and politic, by the name of the trustees of Warren academy. They shall have power and capacity to purchase, receive, and possess lands and tenements, goods and chattels, either in fee or any lesser estate therein, and the same to grant, sell, or assign, and to plead and be impleaded, prosecute and defend, all causes in law or equity.

Warren academy in Fauquier incorporated.

II. The said trustees, or a majority of them, when assembled, shall have power to make such bye-laws and ordinances, as they shall think best for the good government of the said academy, and to perform and do any act respecting the property vested therein: Provided such bye-laws and ordinances shall not be inconsistent with the laws and constitution of this commonwealth.

III. They shall choose a president and secretary out of their own body; and in case of vacancy, by death or otherwise, of any one or more of the said trustees, the same shall be supplied by a majority of the remaining trustees.

IV. *And be it further enacted*, That the lands conveyed to the former trustees of the said academy, by Richard Henry Lee, Esquire, shall be vested in the trustees appointed by this act, as effectually as if such conveyance had been executed and made to them after the passing of this act.

CHAP. XXVIII.

An act amending the act to prevent malicious maiming and wounding.

[Passed the 29th of November, 1788.]

Malicious
maiming and
wounding,
defined.

I: WHEREAS it hath been doubted, whether since the revolution, the offences enumerated in the act, intituled, "An act to prevent malicious maiming and wounding," can be committed upon or against any citizen of this commonwealth; *Be it therefore enacted*, that any person guilty of any of the said offences, upon or against any person whatsoever, within the commonwealth, shall be, and is hereby, declared to be a felon, and shall suffer as in case of felony. But no attainder of such felony shall cause any corruption of blood, or forfeiture of estate whatsoever.

II. So much of the said act, as comes within the purview of this, is hereby repealed.

CHAP. XXIX.

An act for giving further time to the purchasers of lots in the towns of Lewisburg, Stevensburg, and Kinsale, to build upon the same.

[Passed the 29th of November, 1788.]

Further time
allowed to
improve lots,
in towns of
Lewisburg,
Stevensburg,
and Kinsale.

I. WHEREAS it has been represented to the present general assembly, that the purchasers of lots in the town of Lewisburg, in the county of Greenbrier, have been prevented by unavoidable accidents from building upon their lots, according to the conditions of their deeds, and it is judged expedient that a farther time should be allowed them for that purpose: *Be it therefore enacted by the General Assembly*, That the farther time of two years, from and after the passing of this act, shall be allowed to the purchasers of lots in

the said town of Lewisburg, to build upon the same, within which time no such lot shall be forfeited for any failure to comply with the conditions expressed in the deeds before mentioned.

II. *And be it further enacted*, That the farther time of three years, from and after the passing of this act, shall be, and is hereby, allowed the proprietors of lots in the towns of Kinsale, in the county of Westmoreland, and Stevensburg, in the county of Culpeper; to build upon and save the same; any law to the contrary notwithstanding.

CHAP. XXX.

An act for selling part of a lot in the town of Lexington, and county of Rockbridge.

[Passed the 6th of December, 1788.]

BE it enacted, That the trustees of the town of Lexington, in the county of Rockbridge, or a majority of them, shall, as soon as may be, sell at public auction, for the best price that can be had, such a part of the lot in the said town, whereon the courthouse is erected, as to them shall seem most proper, convey the same to the purchaser or purchasers in fee, and apply the money arising from the sale thereof, as the court of the said county shall direct, towards lessening the levy of their county. *Provided always*, that it shall not be lawful for the said trustees to sell that part of the said lot whereon the courthouse is erected, nor more than one moiety of the said lot.

Part of lot on which court house stands, in town of Lexington, Rockbridge county, may be sold.

LAWS OF VIRGINIA,

CHAP. XXXI.

An act prescribing the mode of advertising estrays on the western waters.

[Passed the 6th of December, 1788]

Estrays on western waters, how advertised.

I. *BE it enacted by the General Assembly, That* from and after the first day of February next, estrays taken up in the district of Kentucky, shall be advertised in the Kentucky Gazette, in the same manner as estrays are directed to be advertised in the Virginia Gazette.

II. *Provided always, and be it further enacted, That* if more than one estray shall be described in an advertisement, the clerks of the county courts in the said district, and the printer thereof, shall not demand more than one shilling for every such additional estray.

III. All persons shall have access to the estray-book, without paying any fee therefor; any law to the contrary notwithstanding.

CHAP. XXXII.

An act concerning incestuous marriages.

[Passed the 8th of December, 1788.]

Incestuous marriages within certain degrees of consanguinity prohibited.

I. *BE it enacted by the General Assembly, That* if any person whatsoever shall hereafter marry within the following degrees, that is to say: If the son shall marry his mother or step-mother, the brother his sister, the father his daughter or his son's daughter, or his daughter's daughter, or if the son shall marry the daughter of his father, begotten and born of his step-mother, or the son shall marry his aunt, being his father's or mother's sister, or marry his uncle's wife, or

the father shall marry his son's wife, or the brother shall marry his brother's wife, or any man shall marry his wife's daughter, or his wife's son's daughter, or his wife's daughter's daughter, or his wife's sister, every person or persons so unlawfully married, shall be separated by the definitive sentence or judgment of the high court of chancery; and the attorney general, upon any information made to him, of any such marriage, shall and may exhibit a bill to the judges of the said court against any persons so unlawfully married, who shall be compelled upon oath to answer the same; and upon such bill and answer, and the depositions of witnesses, where the same shall be necessary, the said court shall and may proceed to give judgment, and to declare the nullity of such marriage, and moreover may punish the parties by fine: and, if the court see fit, may cause the parties so separated, to give bond with sufficient surety, that they will not hereafter cohabit, in such penalty as the said court shall judge reasonable. *Provided always*, That no punishment by fine shall be imposed on any person until the same shall have been assessed by a jury duly impanelled at the bar of the said court. All the fines imposed by virtue of this act shall be to the use of the poor of the county wherein the offence or offences shall be committed. *Provided always*, That nothing herein contained shall be construed to render illegitimate the issue of any marriage so annulled.

Trial by jury,

Issue legitimate.

II. So much of all and every act or acts, as relates to incestuous marriages or copulations, shall be, and the same is hereby repealed.

CHAP. XXXIII.

An act for vesting in trustees the interest which the commonwealth now hath, or hereafter may have, in a tract of land whereof Robert Gilbert, died seized.

[Passed the 8th of December, 1788]

WHEREAS it hath been represented to the present general assembly, that Robert Gilbert, departed this

Escheatable lands of Robert Gilbert, vested in trustees

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tees for benefit of his widow and payment of his debts.

life, in the year one thousand seven hundred and eighty six, intestate, and without heirs, leaving a personal estate not sufficient for the payment of his debts, and possessed of a tract of land in the county of Jefferson, which has become escheatable to the commonwealth, and it is more agreeable to the principles of justice that the said land should be applied to the discharge of the debts of the said Robert Gilbert, and the support of his widow, than that the public should be benefited thereby; *Be it therefore enacted by the General Assembly,* That all the right and interest which the commonwealth now hath to the said tract of land, so lying and being in the county of Jefferson, as aforesaid, and granted to the said Robert Gilbert, by patent bearing date the tenth day of July, one thousand seven hundred and eighty-six, or which may hereafter be established therein by an office to be found, shall be, and the same is hereby, vested in John Beckley, John Hopkins, and Thomas Williams, trustees, or the survivor of them. When the right of the commonwealth to the said land shall be fully established agreeably to the directions of the act, intituled, "An act concerning escheat-ors" the said trustees, or the survivor of them, shall, when required by David Lambert, surviving administrator of the said Robert Gilbert, deceased, or by any other person who may hereafter become the administrator of the estate of the said Robert Gilbert, or by Sarah Gilbert, widow and relict of the said Robert Gilbert, or her legal representatives, sell the said tract of land for the best price that can be gotten. One-third of the purchase money shall be paid by the said trustees to the said Sarah Gilbert, or her legal representatives, and the other two thirds shall be paid to the administrator of the goods and chattels of the said Robert Gilbert deceased, to be applied by him in a due course of administration to the discharge of the debts of the said Robert Gilbert, deceased. And in case there should be any surplus, after paying such debts, the same shall by the said administrator, be paid into the public treasury.

CHAP. XXXIV.

An act for the punishment of the crime of bigamy.

[Passed the 8th of December, 1788.]

WHEREAS it hath been doubted, whether bigamy or polygamy be punishable by the laws of this commonwealth; *Be it enacted by the General Assembly,* Bigamy defined and punished. that if any person or persons within this commonwealth, being married, or who shall hereafter marry, do at any time after the first day of February, which shall be in the year of our Lord, one thousand seven hundred and eighty-nine, marry any person or persons, the former husband or wife, being alive, that then every such offence shall be felony, and the person or persons, so offending, shall suffer death as in cases of felony: And the party and parties so offending, shall receive such and like proceeding, trial and execution, within this commonwealth, as if the offence had been committed in the county where such person or persons shall be taken or apprehended. *Provided,* that nothing herein contained shall extend to any person or persons whose husband or wife shall be continually remaining beyond the seas by the space of seven years together, or whose husband or wife shall absent him or herself, the one from the other, by the space of seven years together, in any part within the United States of America or elsewhere, the one of them not knowing the other to be living within that time. *Provided also,* that nothing herein contained shall extend to any person, or persons, that are, or shall be, at the time of such marriage, divorced by lawful authority; or to any person, or persons, where the former marriage hath been, or hereafter shall be by lawful authority, declared to be void, and of no effect; nor to any person, or persons, for or by reason of any marriage had or made, or hereafter to be had or made, within age of consent: *Provided also,* that no attainder for the offence made felony by this act, shall make, or work any corruption of blood, or forfeiture of estate whatsoever.

LAWS OF VIRGINIA,

CHAP. XXXV.

An act releasing the escheat and forfeiture accruing on the conviction and attainder of John Price Posey, deceased.

[Passed the 9th of December, 1788.]

Escheat and forfeiture of estate of John Price Posey, convicted of arson, released.

I. WHEREAS John Price Posey, hath been convicted and attainted of arson, and it is contrary to the lenity, which a republican government ought in such cases to observe towards its citizens, that the escheat and forfeiture of estate, incident thereto by law, should be enforced against a family already oppressed by misfortune, and more particularly against his wife, from whose patrimony such estate hath principally, if not wholly, arisen. *Be it therefore enacted by the General Assembly,* That all right, title, interest claim, and demand, which now exists in the commonwealth, or upon any office hereafter to be found, shall be established therein, to the estate of the said John Price Posey, deceased; shall pass, descend, and vest, in and to, the same person, or persons, and be subject to all, and every claim, and claims, in law and equity, of all and every person, and persons whatsoever, in the same manner, as if no conviction or attainder of the said John Price Posey had taken place.

CHAP. XXXVI.

An act to amend the act, intituled, An act to regulate the inspection of flour.

Penalties. under the law regulating the inspection of flour, how recoverable.

[Passed the 10th of December, 1788.]

I. WHEREAS the mode of recovering the penalties imposed by an act of the last session of the general assembly, intituled "An act to regulate the inspection of flour and bread," is attended with great delay, and

many persons are thereby prevented from suing for the same: *Be it therefore enacted by the General Assembly,* That where the penalties and forfeitures are over the sum of twenty five shillings, and do not exceed five pounds, the same shall be recoverable by petition in the same manner, as is by law directed in case of petitions for the like sum of money: And where the penalty incurred shall exceed the sum of five pounds, the prosecutor may sue for the same, in the court of the county, or corporation, where the defendant resides, or where the offence was committed. The prosecutor may make oath before a justice of the peace, of the nature of the action, and that he verily believes the defendant hath incurred the penalty and forfeiture thereby demanded, which the clerk, upon a certificate thereof to him produced, shall indorse upon the back of the writ, and thereupon the defendant shall be ruled to give special bail. So much of the said recited act, or any other act of assembly, as comes within the purview of this act, shall be, and the same is, hereby repealed.

CHAP. XXXVII.

An act releasing the escheat accruing on the death of Roscow Cole Bingham, deceased.

[Passed the 10th of December 1788]

I. WHEREAS Roscow Cole Bingham, deceased, was in his lifetime seized in fee-simple, under the will of his father Stephen Bingham, of a certain tract of land, lying, and being, in the county of King William: And it is represented to this present general assembly, that the said Roscow Cole Bingham, departed this life under age, intestate, and without leaving any person capable by law, of inheriting the said land, and that Stephen Bingham, would, but for the impediment of half blood, have been the heir of the said Roscow Cole Bingham, and it is not reasonable that

Escheat of
estate of Ros-
cow Cole
Bingham, for
defect of
blood, releas-
ed.

the commonwealth should derive benefit from a principle of escheat, inconsistent with the genius of republican government: *Be it enacted by the General Assembly*, That all the right, title, interest, claim, and demand, which now exists in the commonwealth, or upon any office, hereafter to be found, shall be established therein, shall pass, descend, and vest, in and to, the same person, or persons, and in the same manner, as if no defect of heritable blood had taken place; saving however to all persons, and bodies, politic, and corporate, other than those claiming under the commonwealth, all legal or equitable rights, which they might have asserted to the said land, if no defect of heritable blood had taken place.

CHAP. XXXVIII.

An act to disable certain officers under the continental government, from holding offices under the authority of this commonwealth.

[Passed the 8th of December, 1788.]

Disqualification of officers under the federal government, to hold under this commonwealth.

I. WHEREAS the good people of this commonwealth in convention assembled did, on the twenty fifth day of June last, ratify a constitution for the government of the United States of America, the operations of which will soon commence;

II. And whereas it is judged expedient and necessary, that all those who shall be employed in the administration of the said government, ought to be disqualified from holding, or administering any office, or place whatsoever, under the government of this commonwealth: *Be it therefore enacted by the General Assembly*, That the members of the congress of the United States, and all persons who shall hold any legislative, executive, or judicial office, or other lucrative office whatsoever, under the authority of the United States, shall be ineligible to, and incapable of hold-

ing any seat in either house of the general assembly, or any legislative, executive, or judicial office, or other lucrative office whatsoever, under, under the government of this commonwealth: *Provided nevertheless,* That such disqualification shall not extend to militia officers, or the magistrates of county courts.

CHAP. XXXIX.

An act for establishing an inspection of tobacco in the town of Newport and county of Prince William.

[Passed the 11th of December, 1788.]

I. *BE it enacted by the General Assembly,* That an inspection of tobacco shall be, and the same is hereby established on the lots of Cuthbert Bullitt, gentleman, in the town of Newport, and county of Prince William, numbered twenty nine, thirty, thirty one, and thirty two, in the plot of the said town (the proprietor being willing to build convenient and proper houses for the reception of tobacco, at his own expence) and shall be called and known by the name of Bullitt's warehouse. There shall be allowed and paid annually to each of the inspectors at the said warehouse, the sum of fifty pounds for their salary. The appointment of inspectors and all other regulations respecting the said warehouse shall be the same as directed by law for other inspections and not contrary to this act. If the quantity of tobacco inspected at the said warehouse shall not be sufficient to pay the usual charges and inspectors salaries, the deficiency shall not be paid by the public. The said Cuthbert Bullitt, shall, on or before the first day of May next, give bond, with sufficient security, in the court of the said county of Prince William, in the penalty of two thousand pounds; payable to the governor, for the time being, and his successors, for the use of the commonwealth, with condition that he will not build nor suffer to be built, any house with a fire place therein, on his lots or lands, within one hundred yards of the said warehouse.

Inspection of tobacco, in town of Newport, in Prince William county established.

LAWS OF VIRGINIA,

CHAP. XL.

An act for altering the times of holding the courts in the county of Henry.

[Passed the 13th of December, 1788.]

1. BE it enacted by the General Assembly, That
Court day of from and after the thirty first day of January next, a
Henry county court for the county of Henry shall be held by the
altered. justices thereof, on the last Monday in every month,
and that a court of quarter-sessions shall be held for
the said county in each of the months of February,
April, July, and October, in every year, instead of the
months heretofore appointed for that purpose; any law
to the contrary hereof, notwithstanding.

CHAP. XLI.

An act for altering the days of holding courts in the town of Fredericksburg, and county of Sussex.

[Passed the 13th of December 1788.]

1. BE it enacted. That from and after the first day
Court days of of February next, a court of hustings for the town of
town of Fred- Fredericksburg, shall be held on the fourth Friday in
ericksburg every month, instead of the day heretofore appointed
and county of by law.
Sussex altered.

II. And be it further enacted, That from and after
the said first day of February next, a court for the
county of Sussex, shall be held on the first Thursday
in every month, instead of the day heretofore appointed
by law.

CHAP. XLII.

An act concerning the militia.

[Passed the 15th of December, 1788.]

I. *BE it enacted by the General Assembly, That* each of the militia in the several counties on the western waters, shall keep always ready a good musket or rifle, half a pound of good powder. and one pound of lead, to be produced whenever called for by his commanding officer, or be fined at the discretion of a court martial, in any sum not exceeding ten shillings for each neglect; unless he be so poor as to be unable to furnish the same, in which case the former regulations established by the act of the October session, in one thousand seven hundred and eighty five concerning poor soldiers, shall be in force.

Militia on western waters how armed.

II. *And be it further enacted, That* regimental musters shall in future be substituted in lieu of general musters. It shall be lawful for any court martial to remit any fine assessed at the last court of enquiry, and assessment of fines held for the county, if to them it shall appear just and reasonable, and where any person shall have paid such fine, it shall be repaid by order of such court.

Regimental musters substituted for general musters.

III. And whereas by the act passed at the October session of the general assembly, one thousand seven hundred and eighty-seven, intituled "An act to amend the several acts respecting the militia;" the governor, with advice of council, was authorised to issue commissions for officers to a troop of cavalry, to be raised and annexed to every regiment of militia, which commissions will become void, unless the troops are compleated within twelve months from the date thereof, and it appears that a further time should be allowed to the officers to compleat the said troops: *Be it therefore enacted, That* the further time of twelve months from the passing of this act, shall be allowed for compleating the said troops, until the expiration of which time, none of the commissions aforesaid, shall become void. So much of every act as comes within the purview of this act, is hereby repealed.

Further time allowed to complete troops of cavalry.

CHAP. XLIII.

An act for opening and improving the navigation of Mattaponi river.

[Passed the 15th of December, 1788.]

Provision for
opening and
improving
the naviga-
tion of Matta-
poni river.

I. WHEREAS it is represented to the general assembly, that the opening, improving, and extending the navigation of Mattaponi river, to the highest part practicable, will be of public utility, and that many persons are willing to subscribe considerable sums of money for effecting the same: *Be it therefore enacted*, That Edmund Pendleton, William Nelson, John Baylor, Edmund Pendleton, jun. John Hoomes, John Page, Mungo Roy, John Taylor, Francis Corbin, Benjamin Temple, Larkin Smith, Anderson Scott, Anthony New, and Lawrence Battaile, be, and they are hereby constituted and appointed trustees, for clearing, improving and extending the navigation of the said river, from Todd's bridge, in the counties of King William and King and Queen, as far up the same as they may judge it practicable, so as to have a sufficient depth and width of water to navigate boats, batteaus, or canoes, capable of carrying four hogsheads of tobacco; and they are authorized to take and receive subscriptions for that purpose. Any person neglecting or refusing to pay the money by him subscribed for the purposes of this act, it shall be lawful for the trustees to recover the same by warrant before a single magistrate, where the subscription doth not exceed twenty five shillings, and where it exceeds that sum, by motion in the court of the county where the person resides, provided he has ten days previous notice of such motion. The said trustees or a majority of them, shall as soon as may be, proceed to view the said river, and ascertain as nearly as they can, the highest part capable of navigation according to this act, and to contract and agree with any person, or persons, for clearing and improving the navigation of the said river, in such manner as the said trustees shall judge proper, and to remove all obstructions which in any manner injure the said navigation. The said trustees or a majority of them, shall

have power to nominate and appoint, from time to time, one or more of their number, to be receiver or receivers of all money subscribed by virtue of this act, who shall give bond with sufficient security in the penalty of one thousand pounds, in the court of the county where he or they respectively reside, payable to the said trustees and their successors, for the time being, with condition that he or they, his or their heirs, executors, or administrators, at all times when required, will truly and faithfully account for all sums of money that shall come to his or their hands for the purposes of this act, and pay the same to such person or persons as the said trustees or a majority of them shall order and direct.

II. And whereas it may be necessary in some parts of the said river to straighten the same, by cutting away the bank or by a canal, and also to erect houses on the banks of the said river for the use of toll gatherers.

III. *Be it therefore enacted*, That it shall and may be lawful for the said trustees, or a majority of them, to agree with the owners of any land through which the said canal is intended to pass, or on which any house shall be thought necessary to be erected for the purchase thereof, and in case of disagreement, or in case the owner thereof shall be a feme-covert, under age, non-compos, or out of the state, the like proceedings shall be had to estimate the value thereof by a jury, as are directed and prescribed by the act intituled "An act for opening and extending the navigation of Potowmack river," and such valuation shall be paid by the trustees to the owner of the said land, or his or her legal representative, and on payment thereof, the said land shall thenceforth be vested in the said trustees and their successors in fee, for the purpose of this act. The said trustees and their successors, or a majority of them, shall have power and authority to agree with any person or persons to cut such canals, and erect any works they may think necessary, for opening, improving, and extending the navigation of the said river, and out of the money arising from the subscriptions and tolls hereafter given, to pay for the same, and to repair and keep in order the said canals and other works, and to defray all incidental charges, and to appoint such toll-gatherers, managers, and servants, as

they shall judge requisite, and to agree for and settle their respective wages or allowances, and settle and pass their accounts, and to make and establish such rules of proceeding, and to transact all other business for the purpose of carrying this act into execution.

IV. *And be it further enacted*, That for and in consideration of the expence the subscribers will be at, not only in cutting canals or other labour for opening and extending the navigation of the said river, but in maintaining and keeping the same in repair, it shall and may be lawful for the said trustees and their successors at all times hereafter, to demand and receive at such place or places upon the said river, as they may think most convenient, for all commodities transported up or down the same, tolls not exceeding those imposed by the act intituled "An act for opening and extending the navigation of Potowmack river;" and in case any person shall refuse or neglect to pay the tolls at the time of offering to pass the place appointed for the payment thereof, and previous to the vessels passing the same, the collectors of the said tolls may lawfully refuse passage to such vessel, and if any vessel shall pass without paying the said toll, then the said collectors may seize such vessel wherever found, and sell the same at auction, for ready money, which so far as is necessary, shall be applied towards paying the said tolls, and all expences of seizure and sale, and the balance if any, shall be paid to the owner, and the person having the direction of such vessel, shall be liable for such toll if the same is not paid by sale of such vessel.

V. The profits arising from the said tolls, together with the works erected for opening and improving the navigation of the said river, shall be, and the same are hereby vested in the said trustees, and their successors for ever; to, and for the use of the subscribers, and their heirs, as tenants in common, to be apportioned among them, according to the sums by them respectively subscribed and paid, and the same shall be deemed real estate, and be for ever exempted from payment of any tax, or imposition whatsoever. The said trustees, and their successors, shall be, and they are hereby declared to be incorporated, by the name and title of the Mattapony trustees; and may sue and be sued as such. In case of the death, removal, resignation, or incapacity of any of the said trustees, it shall be lawful

for the subscribers, or a majority of them, to elect other person, or persons, in the room of him or them, so dying, removing, or resigning; of the time and place for making such election, previous notice shall be given by advertisement, at the courthouse of the county of Caroline, on two successive court days by the said trustees. If a majority of the subscribers should fail to attend on the day appointed for electing a trustee, the vacancy shall be supplied by those who do attend. The subscribers may vote either in person, or by proxy. It shall and may be lawful for every subscriber to transfer his interest in the said canals, works, and tolls, in the same manner, and under the like conditions and exceptions, as are prescribed by the said recited act. If any landholder on the said river, being resident thereon, if not the tenant or overseer, shall suffer any tree to be felled from his land, or the land of which he is a tenant, or resides on as an overseer into the said river, and therein to remain the space of twenty four hours, at any time after the navigation of the said river hath become practicable, every such landholder, tenant, or overseer, shall forfeit and pay the sum of forty shillings, to be recovered with costs, by information in any court of record, to the use of the person suing for the same. So much of all and every act and acts, as comes within the meaning of this act, is hereby repealed.

CHAP. XLIV.

An act for establishing several new ferries, and discontinuing one formerly established.

[Passed the 16th of December, 1788]

I. *Be it enacted by the General Assembly, That public ferries shall be constantly kept at the following places, and the rates for passing the same, as followeth:* New ferries established and others discontinued.
That is to say, from the land of John Chenowith, in

the county of Hampshire, across Cape Capon river, to the land of James Largent, on the opposite shore, and from the land of the said James Largent, across Cape Capon river, to the land of the said John Chenowith, the price for a man four pence, and for a horse the same; from the land of Dudley Evans, across Monongalia river, to the land of Rice Bullock, on the opposite shore, the price for a man three pence, and for a horse the same; from the land of David Chambers, in the county of Ohio, across the Ohio river, to the opposite shore, the price for a man six pence, and for a horse the same; and from the land of Elias Poston, in the county of Hampshire, across Cape Capon river, to his land on the opposite shore, the price for a man four pence, and for a horse the same: And for the transportation of wheel-carriages, tobacco, cattle, and other beasts, at the places aforesaid, the ferry-keepers may demand and take the following rates, to wit: For every coach, chariot, or waggon, and the driver thereof, the same as for six horses; for every cart or four wheel chaise, and the driver, the same as for four horses; for every two wheel chaise or chair, as for two horses; for every hogshead of tobacco, as for one horse; for every head of neat cattle, as for one horse; for every sheep, goat, or lamb, one fifth part of the ferriage for one horse; and for every hog, one fifth part of the ferriage for every horse, and no more.

II. If any ferry-keeper shall demand or receive any greater rates than is hereby allowed for the ferriage or carriage of any thing, he shall for every such offence, forfeit and pay to the party grieved, the ferriages demanded or received, and ten shillings, to be recovered with costs before a justice of the peace of the county where the offence shall be committed.

III. *And be it further enacted*, That the ferry heretofore established from the lands of Joseph Cabell, in the county of Buckingham, across Fluvanna river, to the lands of William Cabell, on the opposite shore, shall be, and the same is hereby discontinued.

CHAP. XLV.

An act to regulate the suing out, and prosecuting writs of forcible entry and detainer.

[Passed the 16th of December, 1788.]

I. *BE it enacted by the General Assembly, That* no warrant of forcible entry and detainer, or of forcible detainer, shall hereafter be granted, unless upon the oath or affirmation of the party praying the same. Practice in suing out writs of forcible entry and detainer, regulated.

II. *And be it further enacted, That* the name, or names, of the person, or persons, so charged, shall be inserted in every such warrant; and the sheriff or other officer to whom the same shall be directed, shall give reasonable notice, of at least three days, to such person, or persons, of the time and place of taking the inquisition. And no jury shall be sworn to enquire of any forcible entry or detainer, where such previous notice hath not been given.

III. *And be it further enacted, That* such justices, or justice of the peace, as by reason of any law now in force within this commonwealth, are authorised and enabled, upon enquiry, to give restitution, or possession, unto tenants of any estate of freehold, of their lands or tenements, which shall be entered upon with force; shall, by reason of such law, have the like and the same authority and ability from henceforth, upon indictment of such forcible entries, or such forcible withholding, before them duly found, to give like restitution of possession unto tenants for term of years, or tenants by elegit of lands or tenements by them so holden, which shall be entered upon by force, or holden from them by force.

CHAP. XLVI.

*An act for further amending an act,
intituled, An act for establishing a
district court on the western wa-
ters.*

[Passed the 3d of December, 1788.]

Act establish-
ing district
court on wes-
tern waters,
further a-
mended.

I. WHEREAS the judges, and other officers of the supreme court for the district of Kentucky, are subjected to many inconveniences, by being obliged to make personal applications to the clerks of the several courts of the district for the payment of the salaries accruing to them: For remedy thereof, *Be it enacted by the general assembly*, that the governor, with the advice of council, shall appoint and commission some person to be a receiver, who shall reside at or near the place of holding the said court, and on entering into bond, payable to the governor or his successors, for the use of the commonwealth, and with sufficient security, to be approved of by the said court, in the sum of five thousand pounds, conditioned for the faithful discharge of his trust, shall be vested with the joint power and authority which the public auditor and treasurer are now by law possessed of, for settling with the said clerks and giving them receipts for all public monies for which they are accountable by law, and also the power of the solicitor, to move the said supreme court for judgment and execution against such of them as shall be delinquent.

II. *And be it further enacted*, That the said receiver shall, at every session of the said court, render an account to the then sitting judges, of all the monies he shall have received in consequence of his appointment; out of which he shall be entitled to a commission of four per centum for his trouble, and the balance he shall pay on demand to the judges, and other officers of the said supreme court, in discharge of the salaries, or arrears of salaries, and stipends, which may be due to them, or either of them, upon producing to him such certificates thereof as are required by the act, intituled, "An act to amend an act for establishing a district court on the western waters," taking receipts

thereon as the clerks in the said act are directed to take; which certificates, with a copy of his accounts, after having been examined, and attested to be true, by the said judges, he shall transmit, at least, annually, to the auditor of public accounts, and at the same time pay into the public treasury the surplus of this fund, or be liable to prosecution therefor, in the same manner, and be subject to the same penalties, as delinquent clerks of courts are liable to. *Provided however*, if it shall at any time appear to the said judges, that the fund in the hands of the said receiver, is inadequate to the purposes for which it is allotted, they shall direct the said receiver to make a dividend thereof to each claimant, proportionate to the amount of the certificates they shall respectively produce to him; and the several balances that may then remain due to them, shall be certified by the said receiver, and countersigned by one of the said judges, on which the holder shall be entitled to payment out of the funds provided for the discharge of the salaries of the other civil officers of the state.

III. *And be it further enacted*, That the said judges are hereby authorised and empowered, to appoint a jailor, and make him such allowance for his services as they shall think reasonable, and also to make an allowance for the past services of the person who hath acted as jailor to the said court.

IV. So much of all and every act or acts of assembly, as come within the purview of this act, shall be, and the same is hereby, repealed.

CHAP. XLVII.

An act for giving certain powers to the trustees of the property of the Protestant Episcopal church.

[Passed the 17th of December, 1788.] *

WHEREAS it has been represented to the present general assembly, that some doubts have arisen, whether the trustees appointed in the several parishes within this commonwealth, do take care of, and manage defined. Trustees of property of Protestant Episcopal church, how defined.

the property belonging to, the Protestant Episcopal church, have a power to act as successors to the former vestries, in the management of the property vested in them for charitable and other purposes: *Be it therefore enacted by the General Assembly*, that the said trustees, and their successors, shall, to all intents and purposes, be considered as successors to the former vestries, and shall have the same power of holding and managing all the property formerly vested in them, whether for charitable purposes by private donation, or in trust for the use of individuals.



CHAP. XLVIII.

An act for establishing an inspection of tobacco on the lots of Alexander and Peterfield Trent, in the town of Manchester.

[Passed the 19th of December, 1788.]

Trent's warehouse in Manchester established.

I. *BE it enacted by the General Assembly*, That an inspection of tobacco shall be, and the same is hereby, established on the lots of Alexander and Peterfield Trent, in the town of Manchester, distinguished in the plan of the said town by the numbers, "two hundred and nine," "two hundred and ten," "two hundred and twenty-one," and "two hundred and twenty-two." The said Alexander and Peterfield Trent being willing to build proper warehouses for the reception of tobacco, at their own expence, to be called and known by the name of Trent's warehouse.

II. There shall be allowed and paid annually, to each of the inspectors at the said warehouse, the sum of sixty pounds for their salary.

III. The appointment of inspectors, and all other regulations respecting the said warehouse, shall be the same as directed by law for other inspections:

IV. *Provided always, and be it further enacted*, That the warehouses hereby directed to be established shall

be built of brick or stone, and covered with slate or tile, with gates of iron; and that no tobacco shall be received for inspection at the said warehouse, nor any inspectors appointed for the same, until the court of Chesterfield county shall be of opinion, and enter the same of record, that the proprietors have built the said warehouses according to the directions of this act, and that they are sufficient to contain at least two-thirds of the tobacco that may be brought to the said inspection in any one year.

V. If the quantity of tobacco inspected at the said warehouses shall not be sufficient to pay the usual charges and inspectors salaries, the deficiency shall not be paid by the public.

CHAP. XLIX.

An act for preventing impositions in the collection of taxes.

[Passed the 22d of December, 1788.]

I. WHEREAS the frequent impositions which have been practised on the citizens of this commonwealth, in the collection of the taxes, have rendered it necessary to confine the payment thereof to specie, and warrants equivalent thereto, but such an arrangement cannot be made without reducing the amount of the said taxes, in proportion to the losses sustained by the public, by receiving tobacco at prices exceeding the real value: *Be it enacted by the General Assembly*, that all taxes which became due under any law of revenue, whether on lands, slaves, or other property, on the first day of November, in the year one thousand seven hundred and eighty-eight, and all taxes which have arisen, or shall arise, after that day, under the act, intitled, "An act imposing new taxes," shall be reduced one-third below the amount of all such taxes, as fixed by the laws aforesaid, or any of them. And all sheriffs, collectors, clerks, and public officers, are required to demand and receive two-thirds of the amount of the

Taxes reduced one third, and payable in specie and warrants.

said taxes respectively, and no more; and where more than two-thirds hath been received, to restore the surplus thereof to the person or persons entitled thereto. *Provided*, that nothing herein contained, shall be construed to extend to duties on imports and exports; to the taxes imposed by an act, intituled, "An act to explain and amend the act to levy certain taxes in aid of the public revenue;" to the fees of the register's office; or to any tax on tobacco, billiard tables, or ordinary licences. No distress shall be made for any tax which became due on the first day of November, one thousand seven hundred and eighty-eight, until the first of May, one thousand seven hundred and eighty-nine.—The said taxes shall be accounted for, and paid, in the same manner, and under the same penalties, as the laws aforesaid prescribe, except that the revenue taxes may be accounted for and paid into the public treasury at any time before the first day of September, one thousand seven hundred and eighty-nine.

II. So much of every act, as comes within the purview of this act, is hereby repealed.

CHAP. L.

An act concerning the practise of attornies.

[Passed the 24th of December, 1788.]

Attornies
prosecuting a
suit in an in-
ferior court,
not to appear
in appeal.

I. *BE it enacted by the General Assembly*, That the attorney, who shall prosecute any suit in an inferior court, in which an appeal may be taken, shall not be suffered to appear or prosecute such appeal in any superior court, to which the same may be carried or removed; and any attorney, who shall appear to, or prosecute such appeal in any superior court, having been employed therein in the inferior court, shall forfeit the sum of twenty pounds, to be recovered with costs, by action of debt, or information, in any court of record within this commonwealth; the whole penalty to the use of the person who will sue or prosecute for the same.

II. *And be it further enacted*, That the lawyers practising in the general court within the district of Kentucky, may demand and receive for any suit at common law, other than the actions hereafter mentioned, a fee of thirty shillings; for any chancery suit, or real, mixed, or personal action, where the title or bound of lands shall or may come in question, three pounds.

III. Every lawyer within the said district, receiving or demanding any greater fee, or other reward, for any of the above services, shall forfeit, and pay, twenty pounds for every offence; one half to the informer, and the other moiety to the use of the commonwealth, to be recovered with costs, by action of debt, or information, in any court of record; any law to the contrary thereof notwithstanding.

CHAP. LI.

An act to regulate surveyors fees in certain cases.

[Passed the 25th of December, 1788.]

WHEREAS it hath been represented to this present general assembly, that no particular mode hath been prescribed upon the division of any county within this commonwealth, for the surveyor of the new county to obtain the entries of lands within the same, in consequence of which many disputes have arisen: For remedy whereof, *Be it enacted*, That the surveyor, or surveyors, of any county or counties, from which a new county hath been taken during the present session of assembly, or hereafter shall be taken, shall, within one month after such division takes place, make out, and on application, deliver to the surveyor of the new county, attested copies of all entries made upon lands within such new county, on his books, and not surveyed, together with the warrants upon which they were founded; for which service he shall receive three pence for every such attested copy, paid by the surveyor of the new county, upon receipt of said attested copies. And

Duty of surveyors, on division of counties, as to entries for land.

in case any surveyor shall neglect or refuse to make out, or to deliver, such attested copies of entries, within the time aforesaid, or at the expiration of said time, upon the application of the surveyor of the new county, he shall forfeit, and pay, the sum of fifty pounds, to be recovered by action of debt, or information, in any court of record, by any person who will sue for the same: any law to the contrary notwithstanding.

CHAP. LII.

An act concerning the election of members of the general assembly.

[Passed the 25th of December, 1788.]

Contested elections of members of assembly, how conducted

1. WHEREAS the mode of contesting disputed elections hath heretofore been found to be attended with great inconvenience and delay, *Be it enacted by the General Assembly*, That any person intending to contest the election of any person returned to serve as a senator or delegate, from any county, shall, within twenty days after the assembling of the sheriffs to make a return in the former case, or within ten days after the day of election in the latter, give to the person returned to serve notice thereof in writing, and moreover shall deliver to him at the same time, a list of those persons to whose votes he hath objection, distinguishing his several objections against the names of the voters; and where he hath any other objection to the legality of the election, or the eligibility of the person returned, as aforesaid, he shall, in like manner, give notice thereof, distinguishing his particular objections; and the person returned as aforesaid shall, within twenty days after receiving such notice, deliver the like lists on his part. Where the contest is for the office of a senator, any one or more of the courts in the senatorial district, or where it is for the office of a delegate, the court of the county, shall, upon the application of either party, appoint five commissioners to take the depositions of such witnesses as shall be produced to them,

any three of which said commissioners shall be sufficient for the purpose. But no commissioner shall act without having first taken, before some justice, an oath to act impartially. Reasonable notice, in writing, of the time and place of taking such depositions, shall be given, by either party, to the other. Notice in any of the cases before mentioned, as well as the lists, left with his wife, or any other free person over the age of twenty one years, belonging to his family, other than a negro or mulatto, or, in case of their absence, then at the dwelling house, shall be deemed sufficient. The depositions shall be certified by the commissioners taking the same, sealed up and sent by them to the clerk of that house of which the person was returned a member, without delay.

II. Complaint shall be lodged against a member within ten days after the meeting of the assembly, where the contested election shall have been holden at the stated annual period, or within twenty days after the election, where such election shall have been holden in consequence of an intermediate vacancy; and the depositions taken as aforesaid, shall be, by the clerk of each house, respectively, delivered to the speaker thereof, to be committed with the petition of the the party complaining, and shall be received and read as evidence upon the hearing thereof, subject, however, to the exceptions of the opposite party.

* III. Subpoenas for witnesses shall be issued by the clerks of the county courts upon the application of either party. And the witnesses shall be entitled to the same allowance, be privileged from arrests, and be subject to the like penalties, as witnesses attending the county courts.

IV. If any person shall vote a second time, at any election, for members of the general assembly, he shall forfeit and pay ten pounds, to be recovered, with costs of suit, in any court of record, by action of debt, bill, plaint, or information, to the use of the person who will sue for the same.

V. *And be it further enacted.* That the sheriff conducting the election in any county in the district of Kentucky, shall, at the request of any one or more of the candidates, adjourn the election until the next day, although the electors who appear be not too numerous

to be polled before sun-setting, or there be no rain, or rise of water courses.

VI. *And be it further enacted*, That the several county courts shall be empowered; for good cause to them shewn, to remit any penalty incurred by a freeholder or not having given his vote at any election for a delegate or senator, according to law.

VII. So much of every act and acts, as comes within the purview of this act, shall be, and the same is hereby, repealed.

CHAP. LIII.

An act for amending the acts concerning the poor.

[Passed the 25th of December, 1788.]

Acts concerning the poor amended.

I. FOR the amendment of the several acts concerning the poor, *Be it enacted by the General Assembly*, That wheresoever any former church-warden, who hath not settled his accounts as such, and paid the balance due from him, is already dead, or shall hereafter die, before such settlement and payment, the executors and administrators of such decedent shall be liable to the same recovery as the said church-warden would have been liable to in his lifetime: Saving nevertheless, to the said executors and administrators, the benefit of all pleas to which they may by law be entitled.

II. If any person appointed to superintend an election of overseers of the poor, shall refuse or neglect to serve, without reasonable excuse, he shall forfeit and pay for every such refusal and neglect, the sum of ten pounds, to be recovered for the use of the poor of the county in any court of record, by action of debt, or an information, founded on this act, together with costs: And in case it shall so happen that the person appointed to superintend the election, shall neglect to attend as above recited, in that case the county court shall appoint an overseer at the next court held for such county.

III. It shall be the duty of the sheriff of every county, and of the serjeant of any city or borough, if appointed by the overseers of the poor to collect any poor rate, to collect and account for the same, and to be liable to all things required and imposed on a collector of such rate by law. Any sheriff or serjeant refusing to undertake the said collection, shall forfeit, and pay, the sum of fifty pounds, to be recovered in manner aforesaid, for the use aforesaid.

Sheriffs
bound to col-
lect poor
rates.

IV. *And be it further enacted*, That the trustees of any religious society, shall have full power and authority to prosecute all suits heretofore instituted and now depending, upon bond or otherwise, for any arrearages due to the different parishes within this commonwealth.

Trustees of
religious so-
cieties, to col-
lect balances
due to parish-
es.

CHAP. LIV.

An act concerning the importation of slaves, into the district of Kentucky.

[Passed the 26th of December 1788]

I. WHEREAS many persons who have removed from some other parts of the United States, into the district of Kentucky, and have become citizens of this commonwealth, have failed within ten days after their removal into the same, to take the oath, or oaths, prescribed by two acts of assembly, the one, intituled, "An act for preventing the further importation of slaves," the other, intituled, "An act concerning slaves," to be taken on the importation of the same, although they might with great truth have taken such oaths: *And whereas* such failure hath been chiefly, if not altogether, owing to the impracticability of complying with the said acts: *Be it enacted by the General Assembly*, that such persons as have already removed, or shall remove before the passing of this act, from any part of the United States, into the district of Kentucky, may take the oaths aforesaid, on or before the first day of May, in the year of our Lord, one thousand seven

Importation
of slaves, into
Kentucky,
regulated.

hundred and eighty-nine, and the taking thereof shall be as effectual to award the pecuniary penalties of the said acts, as if it had been within ten days after the removal of such person.

II. All persons who shall remove to the said district, from any part of the United States, after the passing of this act, may take the oath aforesaid within sixty days after such removal; any law to the contrary notwithstanding. *Provided nevertheless*, that this act shall not be construed to affect the right of any slave or slaves, or of any person or persons, entitled to freedom: But as to all persons who may take the said oaths, on or before the said first day of May, the operation of the said acts, as far as they relate to the freedom of any slave removed, or which before the passing of this act may be removed into the district of Kentucky, shall be, and is hereby, suspended for three years; and no suit, or suits, shall be instituted or proceeded on in any court of this commonwealth for the recovery of the freedom of any such slave, before the expiration of the said term of three years. *Provided however*, that the suspension aforesaid, shall not be construed to extend to, or affect, the case of any slave or slave, or of any person or persons, entitled to freedom, who have before the passing of this act instituted a suit or suits for the same, in any court of this commonwealth, nor to any such case in which an adjudication, or adjudications, shall have been had thereupon.

CHAP. LV.

An act concerning the credentials of the senators of this commonwealth in congress.

[Passed the 22d of December, 1788.]

Credentials
of senators to
congress.

1. *BE it enacted by the General Assembly*, That so soon as any election shall be made of senators for this commonwealth, in pursuance of the constitution of

The United States of America, the clerk of the house of delegates shall notify the same to the governor; who shall cause a credential to be made out, and the seal of the commonwealth affixed thereto, shall sign the same, and cause it to be delivered to each senator; which credential shall be in the words following:

“ Virginia, to wit: The legislature of this commonwealth, on the day of one thousand seven hundred and having, in pursuance of the constitution for the United States of America, chosen esquire, a senator; I , being governor or chief magistrate of the commonwealth, do hereby certify the same to the senate of the said United States. Given under my hand and the seal of the commonwealth, this day of one thousand seven hundred and .”

A like notification shall be made, and a like credential shall be delivered to Richard Henry Lee and William Grayson, esquires, respectively, who have been chosen senators for this commonwealth.

II. Whenever the executive shall by virtue of the said constitution, make a temporary appointment of a senator, a credential shall be prepared with the forms and solemnities aforesaid, and shall be delivered to such temporary senator, in the words following:

“ Virginia, to wit: A. B. esquire, who was duly chosen a senator for this commonwealth, in pursuance of the constitution for the United States of America, having died (resigned, or otherwise, as the case may be) during the recess of the legislature of the commonwealth, I, , being governor or chief magistrate of the commonwealth, have therefore thought fit, by and with the advice and consent of the privy council or council of state, and by virtue of the said constitution, to appoint esquire, to be and act as a senator for the commonwealth, until the next meeting of the legislature thereof.” Given under my hand, and the seal of the commonwealth, this , day of one thousand seven hundred and .”

CHAP. LVI.

An act concerning the public hospital in the city of Williamsburg.

[Passed the 25th of December, 1788.]

Directors of
lunatic hospi-
tal, how to
hold courts.

Vacancies
how supplied

I.^d BE it enacted by the General Assembly, That from and after the passing of this act, a court of directors may at any time be holden for the public hospital, in the city of Williamsburg, without the president, if he shall fail to attend, and the eldest member present shall act as president, pro tempore. Any director who shall remove to the distance of twenty miles, or upwards from the said city, shall be considered as having vacated his office. Vacancies in the court of directors may be supplied by the executive. If upon the examination of any person charged with being a lunatic or idiot, or otherwise insane, the said court shall be of opinion that he or she ought not to be confined, it shall be lawful for the said court, forthwith to discharge him or her. Every act coming within the purview of this act, is hereby repealed.



CHAP. LVII.

An act appointing trustees for Philip Johnson, gentlemen, and his children.

[Passed the 25th of December, 1788.]

Trustees for
Philip John-
son and his
children, ap-
pointed.

I. WHEREAS all the trustees appointrd by the act intituled "An act to vest certain lands whereof John Robinson, esquire, died seized in trust for Philip Johnson, gentlemen, and his children in trustees for the purposes therein mentioned, are now dead, and Robert Carter Nicholas, esquire, deceased, is represented to have been the sole acting trustee: *Be it therefore enacted by the General Assembly, That Benjamin Harrison,*

Samuel Griffin, John Walker, William Walker, and William Norvell, gentlemen, be appointed trustees, who, or a majority of whom, may and shall execute and perform all things remaing to be executed and performed by the trustees under the said act. *Provided always*, That nothing herein contained shall be construed to prejudice, or in any manner to affect the rights of the said trustees, or of their executors or administrators, or of any of them; but the same shall remain in the same condition as if this act had never been made.

CHAP. LVIII.

An act giving further time to the purchasers of lots in the town of Moorfield to build thereon.

[Passed the 23d of December, 1788.]

I. WHEREAS the purchasers of lots in the town of Moorfield, in the county of Hardy, from the difficulty of procuring materials have not been able to build on their said lots within the time prescribed by law, *Be it enacted*, That the further time of three years, from and after the passing of this act, shall be allowed the purchasers of lots in the said town to build upon and save the same.

Further time
to improve
lots in town
of Moorefield

CHAP. LIX.

An act for establishing an inspection of tobacco on the lands of Abraham Shepherd, in the county of Berkeley.

[Passed the 29th of November, 1788.]

I. WHEREAS it is represented that the establishing of an inspection of tobacco on the lands of Abra-

Mecklenburg
warehouse, in
Berkeley es-
tablished.

ham Shepherd, near the town of Mecklenburg, on Potowmack river in the county of Berkeley, would be of public utility, and that the proprietor of the said land is willing to erect the houses necessary for that purpose at his own expence: *Be it therefore enacted by the General Assembly*, That an inspection of tobacco shall be, and the same is hereby established on the lands of the said Abraham Shepherd, near the said town of Mecklenburg, in the county of Berkeley, to be called and known by the name of Mecklenburg warehouse.

II. The appointment of inspectors and all other regulations respecting the warehouse shall be the same as is provided for by law for other inspections, so far as the same do not contravene this act. All tobacco inspected at the said warehouse, shall be subject to the same duties and imposts, and be collected and accounted for by the inspectors, in the same manner, and under the like penalties as directed and prescribed by law for other warehouses.

III. There shall be allowed and paid annually to each of the inspectors at the said warehouse, the sum of thirty pounds for their salary: *Provided always*, That if the quantity of tobacco inspected at the said warehouse shall not be sufficient to pay the usual charges and the inspectors salaries, the deficiency shall not be paid by the public. The said Abraham Shepherd, shall, on or before the first day of May next, give bond with sufficient security, in the penalty of two thousand pounds, in the court of the said county, with condition that he will not build, or suffer to be built, any house with a fire place therein, within one hundred yards of the said warehouse.

CHAP. LX.

An act for establishing a town in the county of Nelson.

[Passed the 2d of December, 1788]

Baird's town,
in Nelson
county, Ken-
tucky estab-
lished.

I. *BE it enacted by the General Assembly*, That one hundred acres of land, lying at a place called Baird's town, in the county of Nelson, the property of

David Baird, and John C. Owing, to include the lots which may have been laid off, shall be, and the same are hereby vested in Isaac Morrison, Walter Beall, James Baird, John Reid, Andrew Hynes, Philip Phillips, John Caldwell, Gabriel Cox, James Adams, James Morrison, and Michael Campbell, gentlemen, trustees, to be by them, or a majority of them, laid out into lots of half an acre each, with convenient streets, and established a town by the name of Baird's town; so soon as the said one hundred acres of land, shall be so laid off into lots and streets, the said trustees or a majority of them, shall proceed to sell the said lots at public auction, for the best price that can be had, the time and place of which sale, to be previously advertised for two months, at the respective courthouse doors of the counties of Jefferson and Nelson, the purchasers to hold the said lots respectively, subject to the condition of building on each, a dwelling house sixteen feet square at least, with a brick or stone chimney, to be finished fit for habitation, within three years from the day of sale, and the said trustees, or a majority of them, shall convey the said lots to the purchasers in fee, subject to the conditions aforesaid, and pay the money arising from the sale thereof, to the said David Baird, and John C. Owing, or their respective legal representatives. The said trustees, or the major part of them, shall have power from time to time, to settle and determine all disputes concerning the bounds of the said lots, and establish such rules and orders for the regular building of houses thereon, as to them shall seem most convenient, and in case of the death, resignation, or other legal disability of any of the said trustees, it shall be lawful for the other trustees to supply such vacancy, and the trustees so elected, shall be vested with the same power and authority, as those particularly named in this act. The purchasers of the lots in the said town, so soon as they shall have built upon and saved the same according to the conditions of their respective deeds, shall then be entitled to, and have and enjoy all the rights, privileges, and immunities, which the freeholders and inhabitants of other towns in this state, not incorporated, hold and enjoy. If the purchaser of any lot shall fail to build thereon within the time before limited, the said trustees, or a majority of them, may thereupon enter into such lot,

and sell the same again, and apply the money for the benefit of the said town: *Provided always*, that nothing herein contained, shall be construed or taken to interfere with, or affect the rights or claims of any person to lots in the said town, who have built or made improvements thereon, under agreements or contracts with the proprietors or their agents; nor shall such lots be sold by the said trustees.

CHAP. LXI.

An act to empower the trustees of the parish of Nottoway, in the county of Amelia, to sell the glebe of the said parish, and to lay out the money in purchasing a more convenient glebe.

[Passed the 24th of December, 1788.]

I. WHEREAS it is represented to this present general assembly, that the glebe lands in the parish of Nottoway, in the county of Amelia, are for the most part worn out, and not stocked with timber sufficient to keep up the necessary repairs, and that the houses thereon are in a ruinous situation, and that it would be very advantageous to the inhabitants of the said parish, if the trustees thereof were empowered to dispose of the said glebe, and to lay out the money arising from the sale thereof, in purchasing other lands for a glebe. *Be it therefore enacted by the General Assembly*, That the said glebe lands, with the appurtenances be, and the same are hereby vested in the trustees of the said parish, in trust: *Nevertheless*, That the said trustees, or the greater part of them, shall by deed, or deeds of bargain and sale, sell and convey the said glebe, with the appurtenances, for the best price that can be got, to any person, or persons who shall be willing to purchase the same; to hold to such purchaser or purchasers, his or their heirs and assigns forever.

Trustees of Nottoway parish in Amelia, authorized to sell their glebe, and purchase another.

II. *And be it further enacted*, That the money arising by the sale of the said glebe, shall be by the said trustees laid out, and applied towards purchasing a more convenient glebe, for the use and benefit of the inhabitants of the said parish.

CHAP. LXII.

An act establishing several new ferries in the county of Ohio.

[Passed the 26th of December 1788]

I. *BE it enacted by the General Assembly*. That public ferries shall be constantly kept at the following places, and the rates for passing the same as followeth, that is to say: From the land of George Cox, in the county of Ohio, across Ohio river, to the opposite shore, the price for a man sixpence, and for a horse the same; from the land of John Jones, in the county of Ohio, across Ohio river, to the opposite shore, the price for a man six pence, and for a horse the same; from the land of Van Swearingen, in the county of Ohio, across Ohio river, to the opposite shore, the price for a man sixpence, and for a horse the same; from the land of Absolum Wells, in the county of Ohio, across Ohio river, to the opposite shore, the price for a man sixpence, and for a horse the same; from the land of Reason Pomphrey, in the county of Ohio, across Ohio river, to the opposite shore, the price for a man sixpence, and for a horse the same; and from the land of Jonas Menser, in the said county of Ohio, across Ohio river to the opposite shore, the price for a man sixpence, and for a horse the same. And for the transportation of wheel-carriages, tobacco, cattle, and other beasts, at the places aforesaid, the ferry-keepers may demand and take the following rates, that is to say: For every coach, chariot, or waggon, and the driver thereof, the same as for six horses; for every cart, or four wheel chaise, and the driver thereof, the same as for four horses; for every two wheel chaise,

New ferries established in the county of Ohio.

LAWS OF VIRGINIA,

or chair, the same as for two horses; for every hoghead of tobacco, as for one horse; for every head of neat cattle, as for one horse; for every sheep, goat, or lamb, one fifth part of the ferriage for one horse, and for every hog, one fourth part of the ferriage for one horse, and no more. If the ferry keeper at any of the said places shall presume to demand or receive from any person, or persons, greater rates than is hereby allowed for the carriage or ferrage of any thing, he shall for every such offence, forfeit and pay to the party grieved, the ferriages demanded or received, and ten shillings, to be recovered with costs before a justice of peace of the county where such offence shall be committed.

CHAP. LXIII.

An act allowing the city of Richmond, a representative in the house of delegates.

[Passed the 22d of December, 1788.]

City of Richmond allowed a representative, in the house of delegates.

I. WHEREAS it is provided by the constitution of government, that the privilege of representation in the house of delegates, may be extended to such cities and boroughs, as should thereafter be allowed particular representation in the legislature: *And whereas*, application hath been made to the present general assembly, by the inhabitants of the city of Richmond, to extend to them this high privilege, which it is judged reasonable and expedient so to do: *Be it therefore enacted by the General Assembly*, That the freeholders of the said city, shall be entitled to assemble at the courthouse, or other place of holding courts in the said city, annually, on their court day, in the month of April, and then and there elect one discreet and proper person, being a freeholder, and who shall have bona fide resided within the said city for twelve months, last preceding, as a delegate to represent the said city in the house of delegates. The said election shall be held and conducted by the serjeant of the

said city, for the time being, under the rules, restrictions, and penalties prescribed by law, in the election of members to the general assembly: *Provided always*, that no freeholder of the said city shall be entitled to vote in right of such freehold, at any county election of delegates to the general assembly.

CHAP. LXIV.

An act for dividing the county of Amelia.

[Passed the 22d of December, 1788]

1. *BE it enacted by the General Assembly*, That from and after the first day of May next, the county of Amelia shall be divided into two distinct counties, that is to say, all that part of the said county lying south of a line to begin at a place called Well's bridge, on Namozene creek, which divides the said county, from the county of Dinwiddie, thence running through the said county of Amelia, so as to strike the line of Prince Edward county, five miles west of a place called Ward's ford, on Appamattox river, shall be one distinct county, and called and known by the name of Nottoway, and the residue of the said county shall retain the name of Amelia. A court for the said county of Nottoway, shall be held by the justices thereof, on the first Thursday in every month, after the said division shall take place, in such manner as is provided by law for other counties, and shall be by their commissions directed. The justices to be named in the commission of the peace for the said county of Nottoway, shall meet at the new house of Peter Stainback, in the said county, upon the first court day after the said division shall take place, and having taken the oaths prescribed by law, and administered the oath of office to, and taken bond of the sheriff according to law, proceed to appoint and qualify a clerk, and fix upon a place for holding courts in the said county, at, or as near the centre thereof, as the situation and convenience will

Amelia county divided and Nottoway formed.

admit of, and thenceforth the said court shall proceed to erect the necessary public buildings at such place, and until such buildings be compleated, to appoint any place for holding courts, as they may think proper.—*Provided always*, that the appointment of a place for holding courts, and of a clerk, shall not be made unless a majority of the justices of the said county be present; where such majority shall have been prevented from attending by bad weather, or their being at the time out of the county, in such cases the appointment shall be postponed until some court day, when a majority shall be present. The governor, with the advice of the council, shall appoint a person to be first sheriff of the said county, who shall continue in office during the term, and upon the same conditions, as by law appointed for other sheriffs. It shall be lawful for the sheriff of the said county of Amelia, to collect and make distress for any public dues, or officers fees, which shall remain unpaid by the inhabitants thereof, at the time such division shall take place, and shall be accountable for the same, in like manner as if this act had not been made. And that the court of the said county of Amelia, shall have jurisdiction of all actions and suits depending before them, at the time of the said division, and shall try and determine the same, issue process, and award execution thereon. In all elections of a senator the said county of Nottoway shall be of the same district, as the said county of Amelia. The court of the said county of Amelia, shall, as soon as may be, after the said division. fix on a place for holding courts, at, or as near the centre thereof, as the situation and convenience will admit of; and thenceforth proceed to erect the necessary public buildings at such place, and until such buildings be compleated, to hold courts at any place they may think proper.

CHAP. LXV.

An act to amend an act intituled, An act appointing commissioners to receive subscriptions for opening a road from the falls of the Great Kanawa to Lexington in Fayette county, and for appropriating certain public taxes to open the same.

[Passed the 26th of December, 1788.]

I. WHEREAS the time given by law to receive subscriptions for the purpose of opening a road from the falls of the Kanawa, to Lexington in Kentucky, hath been found too short for the purpose thereof, *Be it enacted by the General Assembly*, that the said act intituled "An act for appointing commissioners to receive subscriptions for opening the said road, shall continue and be in force until the thirty first day of December, in the year one thousand seven hundred and ninety one.

Act appointing commissioners, for opening a road from the falls of the Great Kanawha to Lexington, in Kentucky, amended.

II. *And be it further enacted*, That Levi Todd, James Trotter, Henry Lee, John M'Dowell, John Hawkins, James Garrard, George Clendinen, William Clendinen, and Henry Banks, gentlemen, be, and they are hereby appointed commissioners, to receive subscriptions for the purpose aforesaid, who shall and may receive subscriptions agreeable to the mode and for the purposes therein prescribed.

III. And whereas it is represented to the present general assembly, that the great public utility which will arise from opening a communication with the Kentucky district by means of the aforesaid road, will be considerably retarded and prevented by the slow and uncertain means of receiving a sufficient fund by subscription.

IV. And whereas considerable taxes have become due from the proprietors of the lands through which the said road will pass, when it was impossible for them to derive any benefit therefrom, from their remote situation and the frequent inroads of hostile Indians, and

it is just that the amount of the said taxes should be applied in such manner as to enhance the value of said lands: *Be it therefore enacted by the General Assembly,* That Levi Todd, James Trotter, Henry Lee, John M'Dowell, John Hawkings, and James Garrard, gentlemen, or a majority of them, shall be, and they are hereby appointed commissioners for opening a road from the town of Lexington, in the county of Fayette, to the river known by the name of the Great Sandy, to the most convenient part thereof below the great forks. The said commissioners shall in the court of the counties in which they respectively reside, take an oath for the due execution of the trust hereby reposed in them, and shall moreover enter into bond, with security, in the penalty of one thousand pounds, payable to the governor and his successors for the use of the commonwealth, with condition that they will faithfully discharge the said trust. So soon as they, or a majority of them, have taken the said oaths and entered into the said bonds, they shall appoint a time and place of meeting, giving two months previous notice thereof in the Kentucky Gazette, and shall then and there publicly let to the lowest bidder, the opening the said road from Lexington to Great Sandy river: they shall take a bond in a sufficient penalty, with good security from the undertaker, that the said road shall be completely opened fit for the passage of waggons, within three years from the date of the said bond.

V. *And be it further enacted,* That George Clendinen, Henry Banks, and William Clendinen, gentlemen, or a majority of them, shall be, and they are hereby appointed commissioners for opening a road, from the Great Kanawa river to the Great Sandy river, beginning at the house of William Clendinen, in the county of Kanawa, and running to the place where the road from Lexington to the Great Sandy river terminates; having taken the same oaths, and entered into bond in the like manner, as the commissioners before mentioned, they shall appoint a time and place of meeting, giving previous notice thereof for two months, at the doors of the courthouses of the counties of Greenbrier and Kanawa, and shall then and there let publicly, to the lowest bidder, the opening of the said road, from the Great Kanawa river to the Great Sandy river, and shall take bonds and security of the undertaker, in

like manner as is herein before directed to be taken of the undertakers of the road from Lexington to the Great Sandy river. The undertakers of the road from Lexington, shall have power to contract with any person within the counties of Fayette and Bourbon, and the undertakers of the road from the Great Kanawa river, shall have power to contract with any person within the county of Kanawa for personal labour, supplies of money, or other things necessary for carrying on the said undertakings, and shall give certificates to the persons so contributing, for the amount of what has been furnished by them, which certificates, when countersigned by one or more of the said commissioners, the sheriffs of the said counties shall receive in payment of taxes due from the holders thereof, and they shall be allowed a credit therfor, in the settlement of their accounts for any taxes now due, or hereafter to become due, from any of the said counties: *Provided always*, That the certificates granted by the undertaker and commissioners of the road, from Lexington to Great Sandy river, shall not exceed the sum of three thousand pounds, and those granted by the undertaker and commissioners of the road from the Great Kanawa river, to the Great Sandy river, shall not exceed the sum of one thousand five hundred pounds. The sheriffs authorised by law to distrain for taxes now due, or which may become due in the said counties, shall furnish the said commissioners respectively, with an exact account thereof, and they shall not proceed to collect the same, until directed by the said commissioners in manner herein after directed, except that they shall receive from persons tendering the same, any of the certificates granted, and countersigned as before mentioned. If any person within either of the said counties of Fayette, Bourbon, or Kanawa, shall fail to contribute so much to the opening the said roads respectively, as will discharge the taxes that may be due from him, her, or them, it shall be lawful for the said commissioners to require the said sheriffs to distrain therefor, and the amount thereof when collected, shall be paid to the commissioners, and applied by them to the purposes aforesaid, and the sheriffs on a settlement of their accounts, shall have a credit for all sums so paid by them to the commissioners. If any sheriff shall fail to distrain for, and pay to the com-

missioners the sums so required by them within sixty days after he shall be required to make distress, it shall be lawful for the court of the county to which such sheriff belongs, to give judgment against him therefor on the motion of the commissioners, provided he has ten days notice of such motion. So soon as the said commissioners shall have completed the said roads, or expended the sums herein before directed to be applied to the opening the same, they shall direct the sheriffs of the said counties respectively, to proceed to collect all the taxes that shall then be due in the said counties, which shall be accounted for by the said sheriffs, and paid into the public treasury within six months thereafter, and in case of failure, the solicitor general shall proceed against them, in like manner as against other defaulting sheriffs. The said commissioners shall return to the auditor an exact account of the certificates granted by them, and of the several sums received by them from the sheriffs; and until such account be returned, no such certificates shall be received of any sheriff. All proceedings against the sheriffs of the said counties of Fayette, Bourbon, and Kanawha, shall be suspended until the said accounts shall be returned by the commissioners. The clerks of the said courts, shall return to the executive within six months after the same shall be taken, copies of the bonds entered into by the said commissioners, and certificates of their having taken the oaths herein directed to be administered to them: Every clerk failing so to do, shall forfeit fifty pounds to the use of the commonwealth, to be recovered on the motion of the solicitor general, in the general court or other superior court; provided each clerk hath ten days previous notice of such motion.—*Provided nevertheless*, That nothing in this act shall be construed to affect the taxes due from that part of the county of Kanawha, which was heretofore a part of Greenbrier, and which may have been appropriated for opening a road from the town of Lewisburg, in the county of Greenbrier, to the falls of the Great Kanawha.

CHAP. LXVI.

*An act to revive and amend an act,
intituled, An act for opening and
straightening certain public roads.*

[Passed the 26th of December, 1788.]

I. WHEREAS the commissioners appointed by the act, intituled, "An act for opening and straightening certain public roads," to view and fix on the most convenient and direct way for opening a road from Fredericksburg, to the city of Richmond, could not perform the same by the time limited in the said act for that purpose: *Be it therefore enacted*, That William Nelson, William F. Gray, Thomas Minor, Stapleton Crutchfield, William Pollard, John Garland, Miles Selden, and Thomas Prosser, gentlemen, or a majority of them, shall, on or before the first day of October next, do, and perform, what the former commissioners in the third section of the said act were required to do: *Provided always*, That the said commissioners shall make report of their proceedings to the next general assembly, and not to the county courts.

Act for opening & straightening certain roads, revived and amended

II. And whereas the act passed the last session of assembly, intituled, "An act to amend two acts of assembly, the one intituled, "An act for keeping certain roads in repair," the other "An act for opening and straightening certain public roads," requires the meeting of five commissioners to turn or alter any part of the said roads, a number from their dispersed situation it is found difficult to collect, *Be it therefore enacted*, That any three of the said commissioners shall be sufficient to meet and view the road so proposed to be turned, and upon their report, the court shall be authorised to establish the same, or order a review, as to them shall seem right; and in either case, if the alteration shall be objected to by the proprietor, or his agent, through whose land the said road is to run, the like proceedings shall be observed so far as may be necessary to entitle the proprietor to a compensation as prescribed by the act "Concerning public roads."

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CHAP. LXVII.

*An act establishing district courts,
and for regulating the general
court.*

[Passed the 22d of December, 1788.]

District
courts estab-
lished.

I. WHEREAS the delays inseperable from the present constitution of the general court may be often equal to a denial of justice, the expences of the criminal prosecutions are unnecessarily burthensome to the citizens of this commonwealth, violations of the laws frequently pass with impunity from the difficulty with which witnesses attend from great distances, and the authority of those laws would be more diffusively promulgated by the establishment of district courts: *Be it therefore enacted by the General Assembly,* That this commonwealth, except the district of Kentucky, shall be divided into districts, and a superior court holden in each, in the manner, and at the times and places hereinafter mentioned, that is to say: The counties of Henrico, Hanover, Chesterfield, Goochland, and Powhatan, shall compose one district, and a court shall be holden for the same at the capitol, in the city of Richmond, on the first day of April, and the first day of September, in every year: The counties of James-City, Charles-City, New-Kent, Surry, Gloucester, York, Warwick, and Elizabeth-City, shall compose another district, and a court shall be holden for the same at the city of Williamsburg, in the former capitol, on the twenty-ninth day of April, and the twenty-ninth day of September, in every year: The counties of Richmond, Westmoreland, Lancaster, and Northumberland, shall compose another district, and a court shall be holden for the same at Northumberland courthouse, on the first day of April, and the first day of September, in every year: The counties of Essex, Middlesex, King and Queen, and King William, shall compose another district, and a court shall be holden for the same, at King and Queen courthouse, on the fifteenth day of April, and the fifteenth day of September, in every year: The counties of Spotsylvania, Caroline, King George, Stafford, Orange, and Culpeper, shall

compose another district, and a court shall be holden for the same at Fredericksburg, on the twenty-ninth day of April, and the twenty-ninth day of September, in every year: The counties of Frederick, Berkeley, Hampshire, Hardy, and Shenandoah, shall compose another district, and a court shall be holden for the same at Winchester, on the fifteenth day of April, and the first day of September, in every year: The counties of Augusta, Rockbridge, Rockingham, and Pendleton, shall compose another district, and a court shall be holden for the same at Staunton, on the first day of April, and the first day of September, in every year: The counties of Albemarle, Louisa, Fluvanna, and Amherst, shall compose another district, and a court shall be holden for the same at Charlottesville, on the fifteenth day of April, and the fifteenth day of September, in every year: The counties of Fairfax, Fauquier, Loudoun, and Prince William, shall compose another district, and a court shall be holden for the same at Dumfries, on the twelfth day of May, and the twelfth day of October, in every year: The counties of Harrison, Monongalia, Ohio, and Randolph, shall compose another district, and a court shall be holden for the same at Monongalia courthouse, on the third day of May, and the twentieth day of September, in every year: The counties of Montgomery, Washington, and Russel, shall compose another district, and a court shall be holden for the same at Washington and Montgomery courthouses, alternately, on the second day of May, and the second day of October, in every year: The counties of Norfolk, Isle of Wight, Princess Ann, Nansemond, and Southampton, shall compose another district, and a court shall be holden for the same at Suffolk, on the twelfth day of May, and the twelfth day of October in every year: The counties of Prince George, Sussex, Dinwiddie, and Amelia, shall compose another district, and a court shall be holden for the same at Petersburg, on the fifteenth day of April, and the fifteenth day of September, in every year: The counties of Brunswick, Greenville, Lunenburg, and Mecklenburg, shall compose another district, and a court shall be holden for the same at Brunswick courthouse, on the twenty-ninth day of April, and the twenty-ninth day of September, in every year: The counties of Prince Edward, Buckingham, Charlotte,

Halifax, and Cumberland, shall compose another district, and a court shall be holden for the same at Prince Edward courthouse, on the first day of April, and the first day of September, in every year: The counties of Bedford, Campbell, Franklin, Pittsylvania, and Henry, shall compose another district, and a court shall be holden for the same at New-London, in the late courthouse of Bedford county, now belonging to James and John Calloway, who have agreed to put the same in repair, at their own expence, for the use of the district court, so to be holden in New-London, on the fifteenth day of April, and the fifteenth day of September, in every year: The counties of Accomack and Northampton, shall compose another district, and a court shall be holden for the same at Accomack courthouse, on the twelfth day of May, and the twelfth day of October, in every year:— The counties of Greenbrier and Botetourt, shall compose another district, and a court shall be holden for the same at Lewisburg, in Greenbrier, and Botetourt courthouse, alternately, on the eighteenth day of May, and the eighteenth day of October, in every year, until the proprietor of the Sweet Springs shall erect a sufficient courthouse and prison for the purposes of this act, after which time the Sweet Springs shall become the seat of the district court. And if any of the said several days happen to be Sunday, the courts shall in that case, respectively, begin on the succeeding day. Each court shall sit, if business require it, ten days successively, Sundays exclusive, and no longer, and shall be a court of record.

District court
of Peters-
burg.

II. *And whereas* there is not any courthouse in the town of Petersburg, wherein the district court can hold their sessions, and it is necessary some place should be fixed on for holding the said courts, as also for ascertaining the place whereon the courthouse and prison shall be built; *Be it therefore enacted*, that until the public buildings shall be erected, the said court shall hold their sessions in the house of Robert Armistead, in the said town, and that the courthouse and prison be built on the lands of Erasmus Gill, in the said town, if he be willing to erect the same at his own expence, and the situation on such land be as convenient and proper in the opinion of the county court of Dinwiddie, as any other place which may be offer.

ed for that purpose; and that, after the same shall be completed, the court shall be holden in such courthouse: But in case the said Erasmus Gill shall refuse to erect the necessary public buildings, or the said county court shall deem the situation on his land inconvenient or improper, that then the said court are hereby empowered to fix on the lands of any other person within the said town whereon the said buildings shall be erected, who may be willing to erect the same at his or her own expence.

III. The new counties which have been already made during the present session shall be annexed to districts as follows, that is to say: The county of Kanawha, to the district of Greenbrier and Botetourt; and the county of Nottoway, to the district of Prince George, Sussex, Dinwiddie, and Amelia: and those counties which shall hereafter be made, shall, if taken from one county, or from two or more counties lying in the same district, remain in the district to which they formerly belonged; and if taken from two or more counties lying in different districts, the counties so to be made shall be annexed, unless it be otherwise declared by the legislature, to such of the districts in which the old counties lie, as shall be approved by the executive, subject to the revision of the general assembly.

IV. Three judges shall be elected by joint ballot of both houses of assembly, in addition to the present nine judges of the general court. And it shall be the duty of the judges of the general court to attend the district courts, allotting among themselves half yearly, the districts they shall respectively attend at the succeeding terms thereof: Two to each court, who shall be judges of the court to which they shall be allotted; which allotment shall be certified under the hands and seals of the judges making the same, and entered upon the records of the general court and district courts, at their next terms to be holden respectively: And the said judges shall constitute a court for such districts.—In case of a temporary appointment of a judge made by the executive after the half yearly allotment of districts, as aforesaid, such judge shall take the place of him in whose stead he was appointed: *Provided nevertheless*, that if any one of the said judges shall not attend the court, to which he shall be so allotted, by sick-

How many
judges to con-
stitute a court

ness, or other disability, that in such case, the other judge shall constitute a court, under the following restrictions, to wit: In all criminal cases where the charge shall be of such a nature as in case of conviction, to subject the party to capital punishment or burning in the hand, two judges shall be necessary to proceed upon the trial of the issue, whether in law or fact: *Provided always*, that if only one judge shall attend the said court, and any prisoner shall notwithstanding petition to be brought to trial, in such case, one judge shall constitute a court for such purpose. When two judges shall attend, all questions arising in criminal cases, and submitted to the court, in case the court shall be divided, shall be considered as adjudged in favor of the criminal; and if the court shall be divided upon the final judgment or sentence, judgment shall be entered up in favor of the prisoner, and he forthwith discharged.

Criminal ca-
ses.

V. When two judges do not attend, all criminal cases depending in such court, and not tried upon the consent and petition of the prisoner, where the punishment shall be death or burning in the hand, shall stand continued over to the next court to be held for that district; and if two judges do not attend at such next court, every prisoner, whose cause has been so continued over, shall be bailed as of right, which bail shall be according to the degree of the offence and the ability of the prisoner. And if such prisoner shall appear on the first day of the next term and render himself pursuant to his recognizance, and there shall not be a sufficient court to try such prisoner on or before the third day of that court, such prisoner shall be forthwith discharged.

Oath of jud-
ges.

VI. Each judge of the general court, besides the oaths required by law to be taken by him as such, shall take another oath as judge of the district courts, in the same form as that prescribed by law for a judge of the general court, changing the words "general court," for "district courts," which last mentioned oath may be taken before any court of record, and a certificate thereof lodged in the district court in which such judge shall first sit, and shall enable him to act as a district judge in all duties of office, and as a general conservator of the peace throughout the commonwealth; and on taking the same the additional judges to be elected may

act as judges of the district courts, until the next session of the general court, without having taken the oath as judges of that court.

VII. Any judge who shall sit as a judge of a district court, without having taken the oaths herein required to be taken by him, shall forfeit the sum of five hundred pounds, to be recovered by action of debt, or information, in any court of record; one half to the use of the commonwealth, and the other half to the use of the informer. Penalty for acting without.

VIII. If the judge shall not attend on the first day of any district court, such court shall stand adjourned from day to day until a court shall be made, if that shall happen before four of the clock in the afternoon of the sixth day. Adjournment

IX. If a court shall not sit in any term, or shall not continue to sit the whole term, or before the end of the term shall not have heard and determined all matters ready for their decision, all such suits and things depending in court and undecided, shall stand continued to the next succeeding term. Continuance.

X. If from any cause the court shall not sit on any day in a term, after it shall have been opened, there shall be no discontinuance. But so soon as the cause is removed, the court shall proceed to business, until the end of the term, if the business depending before them be not sooner dispatched. No discontinuance.

XI. The jurisdiction of the said courts, respectively, shall be over all persons, and in all causes, matters, or things at common law now cognizable in the general court, and which shall amount to thirty pounds, or three thousand pounds of tobaccō, whether brought before them by original process, by habeas corpus, appeal, writ of error, supersedeas, mandamus, certiorari, to remove proceedings on a forcible entry or detainer, or for any other purpose, or by any legal ways or means whatsoever; and also all suits now depending in the general court, except as hereinafter is excepted. They shall also have the same jurisdiction concerning mills, wills, roads, and letters of administration, orphans and guardians, public debtors, whether sheriffs or others, and the recording of deeds for lands and other property within the district, and caveats, as the general court now hath by law, and the said courts shall hear and determine all controversies touching Jurisdiction.

ing the same. *Provided also*, that writs of habeas corpus, appeal, error, supersedeas, mandamus, and certiorari, and controversies concerning mills, wills, roads, caveats, and letters of administration, shall not be heard or determined by any district court, unless such writ of error, super edeas, mandamus, and certiorari, relate to some record or proceeding within the said district, or the person praying the habeas corpus, or the mills or roads, or lands, for which the caveats have been instituted, be within the same, or the wills or letters of administration be cognizable by the court of some county within the said district.

Admiralty
causes.

XII. Those cases in which the court of admiralty hath jurisdiction by law, and which are not taken away by the constitution of the United States, are hereby transferred to the district courts, to be proceeded on as the law requires in the said court of admiralty.

Juries.

XIII. The court shall have power to try all issues, and enquire of damages by a jury in all causes before them, and to determine all questions concerning the legality of evidence, and other matters of law, which may arise, for which trial the court shall cause the sheriff attending them to impanel and return jurors, to be sworn well and truly to try the issue joined, or to enquire of damages (as the case may be) according to evidence.

Motions.

XIV. The court shall hear and determine motions against sheriffs or other officers, and attornies at law, for the directors of the James river and Potowmack companies, and for securities against their principal, or against each other, for contribution in all cases, and according to the rules prescribed by law.

Criminal causes.

XV. The district court to be held as aforesaid, shall have full power to hear and determine all treasons, murders, felonies, and other crimes and misdemeanors, committed within their district, and which shall be brought before them under the regulations herein before prescribed.

Questions adjourned.

XVI. The court, when a question new or difficult arises, may adjourn any matter of law to the general court, or any party thinking himself aggrieved by the judgment of the district court, may appeal thereupon as of right, or obtain a writ of error thereto from the

court of appeals, not of right, but at the discretion of the court.

XVII. On an adjournment of a question to the general court, or an appeal or writ of error to the court of appeals, the same proceedings shall be had as in cases heretofore going from the general court to the court of appeals, but no costs shall be incurred on any adjourned question. No costs on.

XVIII. No judge shall twice successively attend the same district.

XIX. The judges of the general court shall forthwith assemble at the capitol in the city of Richmond, on a day to be appointed and notified to each judge, by the governor, with advice of the council, and they, or such as shall meet, provided the number be five, shall proceed by a majority of votes to appoint a clerk for each district court, making a list of the several appointments to be returned to, and entered of record in the general court at their next succeeding session: They shall also give to each clerk elected, a certificate of his appointment, who having taken the oath for giving assurance of fidelity to the commonwealth, and the oath required to be taken by clerks of courts, adapting the same to the district court, shall thenceforth be enabled to execute the duties of his office; which oaths may be taken by the clerks respectively, either before the judges so assembled, or any court of record in the commonwealth, and a certificate thereof, as well as of the appointment of each, shall be entered of record in his district, wherein at the first session he shall moreover enter into bond, with sufficient security, in the penalty of three thousand pounds, payable to the governor or chief magistrate, and his successors, with condition for the faithful performance of his duty; which bond may be put in suit for the benefit, and at the costs of any person or persons aggrieved by the non-feazance or mis-feazance of the clerk, as often as there shall be occasion, until the whole penalty shall be recovered or levied. Each clerk shall hold his office during good behavior, shall be removable on conviction upon an indictment or information, for misuser or nonuser in office, and shall reside and keep his office at the district courthouse of which he is clerk, but when it is held alternately at different courthouses, then he shall keep his office either at the one or the other courthouse, as he may think best. Allotment of Judges.

Clerks.

XX. Whensoever there shall be a vacancy in the office of clerk of any district court, or if a number sufficient to appoint clerks shall not meet at the capitol, in the city of Richmond, on the day aforesaid, it shall be lawful for a majority of the judges of the general court to appoint by commission under their hands and seals. *Provided,* That when such vacancy shall happen during the session of a district court, or the judges of the general court shall neglect to supply any vacancy until the ensuing session of the district court, in which the vacancy shall be, it shall be lawful for the judges attending such district court to appoint a clerk by commission under their hands and seals, which shall be as valid and effectual as if granted by a majority of the judges of the general court. And where the clerk of any district court cannot attend, it may be lawful for the judges of such court to appoint a clerk pro tempore.

Fees of clerks.

XXI. The clerks fees shall be the same with those of the county courts for similar services, and for all other services, the same as those of the clerk of the general court, and shall be collected and accounted for in the same manner, and under the same penalties, as those of the clerks of the county courts now are.

Forms of Writs.

XXII. The judges of the court of appeals shall direct the forms of writs, from time to time, in such manner as shall seem advisable, and until an alteration be made therein, the forms shall be, as nearly as may be, assimilated to those now used in the general court.

Teste of writs.

XXIII. All writs, summonses, and other legal process, shall be issued by the clerk, bear teste in his name, and be returnable to the next court, to be holden for the district, except in the case of subpoenas for witnesses, which may be returnable immediately, if issued in term time, or on any day of the term.

Habeas corpus.

XXIV. Writs of habeas corpus may be granted without a seal, pursuing in all other respects the act, intituled, "An act directing the mode of suing out and prosecuting writs of habeas corpus," and in all cases in which they are now obtainable by law from the general court.

Suits against governor, council, sheriff.

XXV. In all actions or suits which may be commenced against the governor of this commonwealth, any member of the privy council, any of the judges of

the superior courts, or the sheriff of any county during his continuance in office, instead of the ordinary process, a summons shall issue to the sheriff, or other proper officer, reciting the cause of action, and summoning such defendant to appear and answer the same on the proper return day in the next district court; and if such defendant, being summoned, or after a copy shall have been left at his house ten days before the return day, shall not appear to answer the same, the court shall proceed against such defendant in the same manner as if he had been taken upon a *capias ad respondendum*. *Provided always*, that after judgment and the return of a *fieri facias* by the sheriff of that county in which the defendant in any such case resides, that no effects or not sufficient are to be found in his bailiwick to satisfy the said judgment, a *capias ad satisfaciendum* may be issued as in other cases.

XXVI. No writ of *capias ad respondendum* shall be issued against any person in any other district than that in which he resides, until a *non est inventus* has been returned in his or her district, upon a *capias* issued against such defendant in the same suit, and every writ issued contrary thereto shall be *ipso facto* void, and dismissed on the first calling thereof: *Provided nevertheless*, that where two or more persons are or shall be jointly, or jointly and severally bound for the performance of any contract, or for the payment of money or tobacco, by bond, covenant, or otherwise, it shall be lawful to prosecute such persons jointly, in whatever district either of them may reside, and process shall be issued and served accordingly. And where the bond or other writing on which such suits shall be founded shall be filed in the general court, in a county or other inferior court, in the court of one district, and oyer thereof shall be demanded by the defendant, or defendants, to a suit in another district, it shall be sufficient for the plaintiffs in the last mentioned suit to file a copy of the bond or writing, attested by the clerk of the court wherein the same is filed; and the defendant, or defendants, shall be obliged to plead thereto in like manner as if the original bond or writing was filed, and such copy shall be admitted as evidence on the trial. If, however, the defendant, or defendants, shall in such case, plead that the original bond or writing is not his or their deed, the clerk of

Capias respondendum.

Copy of bond when evidence.

the court having such original paper in his custody, shall, on being summoned as a witness, attend with the same at the trial of the issue for the inspection of the jury.

Bail, in personal actions. XXVII. In all actions to recover the penalty for breach of any penal law not particularly directing special bail to be given, in actions of slander, trespass, assault and battery, actions on the case for trover or other wrongs, and all personal actions, except such as shall be hereinafter particularly mentioned, the plaintiff or his attorney, shall, on pain of having his suit dismissed, with costs, endorse on the original writ, or subsequent process, the true species of action, that the sheriff, to whom the same is directed, may be thereby informed whether bail is to be demanded on the execution thereof; and in the cases before mentioned the sheriff may take the engagement of an attorney practising in the district court endorsed upon the writ, that he will appear for the defendant, or defendants, and such appearance shall be entered with the clerk in the office on the first day after the end of the court to which such process is returnable, which is hereby declared to be the appearance day in all process returnable to any day of the court next preceding. Every attorney failing to enter an appearance according to such engagement, shall forfeit to the defendant fifty shillings, for which, judgment shall be immediately entered, and execution may issue thereupon. And although no such engagement of an attorney shall be offered to the sheriff, he shall nevertheless be restrained from committing the defendant to prison, or detaining him in his custody, for want of appearance-bail; but the sheriff in such case shall return the writ executed, and if the defendant shall fail to appear thereto, there shall be the like proceeding against him only, as is hereinafter directed against defendants and their appearance-bail, where such is taken. *Provided always*, that any judge of the general court, in actions of trespass, assault and battery, trover and conversion, and in actions on the case, where, upon proper affidavit, or affirmation, it shall appear to him proper, that the defendant, or defendants, should give appearance-bail, may, and he is hereby authorised to direct such bail to be taken by endorsement on the original writ,

or subsequent process; and every sheriff shall govern himself accordingly.

XXVIII. In all actions of debt founded on any writing obligatory, bill or note in writing, for the payment of money or tobacco, all actions of covenant or detinue, in which cases the true species of action shall be endorsed on the writ as before directed, and that appearance-bail is to be required, the sheriff shall return on the writ, the name of the bail by him taken, and a copy of the bail-bond to the clerk's office before the day of appearance; and if the defendant shall fail to appear accordingly, or shall not give special bail, being ruled thereto by the court, the bail for appearance may defend the suit, and shall be subject to the same judgment and recovery as the defendant might or would be subject to, if he had appeared and given special bail; and in actions of detinue the bail-piece shall be so changed, as to subject the bail to the restitution of the thing, whether animate or inanimate, sued for, or the alternative value, as the court may adjudge. And if the sheriff shall not return bail and the copy of the bail-bond, or the bail returned shall be adjudged insufficient by the court, and the defendant shall fail to appear and give special bail, if ruled thereto, in such case the sheriff may have like liberty of defence, and shall be subject to the same recovery, as is provided in the case of appearance-bail. And if the sheriff depart this life before judgment be confirmed against him, in such case the judgment shall be confirmed against his executors or administrators, or if there shall not be a certificate of probate or administration granted, then it may be confirmed against his estate, and a writ of fieri facias may in either case be issued: But the plaintiff shall object to the sufficiency of the bail during the sitting of the court next succeeding that to which the writ is returnable, or in the office on the first or second rule day, and at no time thereafter.

XXIX. And all questions concerning the sufficiency of bail so objected to in the office shall be determined by the court at their next succeeding term; and in all cases where the bail shall be judged insufficient and judgment entered against the sheriff, he shall have the same remedy against the estate of the bail, as against the estate of the defendant: And that every judgment entered in the office against a defendant and bail, or

Bail in debt
detinue, &c.

Exceptions
to bail.

Office judg-
ments.

against a defendant and sheriff, shall be set aside if the defendant at the succeeding court shall be allowed to appear without bail, put in good bail being ruled so to do, or surrender himself in custody, and shall plead to issue immediately; the court shall regulate all other proceedings in the office during the preceding vacation, and rectify any mistakes or errors which may have happened therein. In every case where judgment shall be confirmed against any defendant, or defendants and bail, or the sheriff, his executors, administrators, or estate as aforesaid, the court, upon motion of such bail, or of such sheriff, his executors or administrators, or any other person on behalf of his estate, may order an attachment against the estate of such defendant or defendants, returnable to the next succeeding court; and upon the execution and return of such attachment, the court shall order the estate seized, or so much thereof as will be sufficient to satisfy the judgment and costs, and all costs accruing under the attachment, to be sold as goods taken in execution upon a fieri facias; and out of the money such judgment and costs shall be satisfied, and the surplus, if any, restored to the defendant or defendants when required.

Special bail.

XXX. Any judge of the general court, when the district court is not sitting, or any justice of the peace, may take recognizance of special bail in any action therein depending, which shall be transmitted by the person taking the same before the next succeeding court, to the clerk of the said court, to be filed with the papers in such action; and if the plaintiff or his attorney shall except to the sufficiency of bail so taken, notice of such exception shall be given to the defendant or his attorney, at least ten days previous to the day on which such exception shall be taken: And if such bail shall be judged insufficient by the court, the recognizance thereof shall be discharged, and such proceedings shall be had as if no such bail had been taken.

Surrender of
principal.

XXXI. Every special bail may surrender the principal before the court where the suit hath been or shall be depending at any time either before or after judgment shall be given: *Provided*, such surrender be made before the appearance day of the first scire facias against the bail, returned executed, or of the second returned *nihil*, but in either case the special bail shall pay the costs of the said scire facias, and judgment for

the same shall be entered against him accordingly. Upon such surrender, the bail shall be discharged, and the defendant or defendants shall be committed to the custody of the sheriff or jailor attending such court, if the plaintiff or his attorney shall desire the same, or such special bail may discharge himself or herself by surrendering the principal or principals to the sheriff of the county where the original writ was served, and such sheriff shall receive such defendant or defendants, and commit him, her, or them to the jail of his county, and shall give a receipt for the body or bodies of such defendant or defendants, which shall be by the bail transmitted to the clerk of the court where the suit is or was depending. When such tender after judgment shall be to the sheriff, he shall keep such defendant or defendants in his custody, in the same manner, and subject to the like rules as are provided for debtors committed in execution for the space of twenty days, unless the creditor, his attorney or agent, shall sooner consent to his, her, or their discharge. The bail shall give immediate notice of such render, to the creditor, his attorney or agent, and if within the said twenty days, such creditor, his attorney or agent, shall not in writing charge the debtor, or debtors in execution, he, she, or they shall be forthwith discharged out of custody; but the plaintiff or plaintiffs may nevertheless afterwards sue out any legal execution against such debtor or debtors, without suing out a scire facias.

XXXII. When the sheriff or other proper officer shall return on any original or mesne process, that he hath taken the body of any defendant and committed him to prison for want of appearance-bail, the plaintiff may proceed and the defendant make his defence in like manner as if his appearance-bail had been entered and accepted, but the defendant shall not be discharged out of custody, until he shall put in good bail, or the plaintiff shall be ruled by the court to accept an appearance without bail, and where any defendant after appearance entered, shall be confined to prison, the plaintiff may file his declaration, give a rule to plead, and deliver copies of such declaration and rule to the defendant or his attorney; and if the defendant shall fail to enter his plea within two months after receiving such declaration and notice, the plaintiff may have his judgment by default as in other cases.

Proceedings
against de-
fendant in
custody.

Alias capias.

XXXIII. Where the sheriff or other proper officer shall return on any writ of capias, to answer in any civil action, that the defendant is not found within his bailiwick, the plaintiff may either sue out an alias or a pluries capias until the defendant shall be arrested, or a testatum copias where he shall be removed into another county, or may at his election sue out an attachment against the estate of the defendant to force an appearance; and if the sheriff or other officer shall return that he hath attached any goods, and the defendant shall not appear and replevy the same, by entering his appearance and giving special bail, in case he shall be ruled so to do, the plaintiff shall file his declaration, and be entitled to a judgment for his debt or damages and costs, which judgment shall be final in all actions of debt founded on any specialty, bill, or note in writing, ascertaining the demand; unless the plaintiff shall chuse in any such case to have a writ of enquiry of damages; and in other cases the damages shall be settled by a jury sworn to inquire thereof. The goods attached shall remain in the hands of the officer till such final judgment be entered, and then be sold in the same manuer as goods taken upon a fieri facias; and if the judgment shall not be thereby satisfied, the plaintiff may sue out execution for the residue; and in case more goods be attached than will satisfy the judgment, the surplus shall be returned to the defendant.

Writs executed but not returned.

XXXIV. If any writ or process shall be executed, and for want of a return thereof to the office from which it issued an alias, pluries, attachment, or other process be awarded, the sheriff shall not execute such subsequent process, but shall return the first process by him executed, if it be in his possession, but if it be not in his possession, then he shall return the subsequent process, with an endorsement of the execution of such first process, and the name of the appearance-bail, if any was taken, and shall also return a copy of the bail bond; on which there shall be the same proceedings as if the said first process had been duly returned.

Rules in clerk's office.

XXXV. Rules shall be monthly held in the clerk's office of each district court, beginning the day after the rising of such court.

Practice.

XXXVI. The plaintiff shall file his declaration in the clerk's office, at the next succeeding rule day after the defendant shall have entered his appearance, or the defendant may then enter a rule for the plaintiff to declare, which if he fail or neglect to do at the succeeding rule day, or shall at any time fail to prosecute his suit, he shall be non-suited, and pay to the defendant or tenant, besides his costs, one hundred and fifty pounds of tobacco, where his place of abode is at the distance of twenty five miles or under, from the place of holding the said district court, and where it is more, five pounds of tobacco for every mile above twenty.

XXXVII. One month after the plaintiff hath filed his declaration, he may give a rule to plead with the clerk, and if the defendant shall not plead accordingly at the expiration of such rule, the plaintiff may enter judgment for his debt or damages, and costs.

XXXVIII. All rules to declare, plead, reply, rejoin, or for other proceedings, shall be given regularly from month to month, shall be entered in a book to be kept for that purpose, and shall expire on the succeeding rule day.

XXXIX. No plea in abatement shall be admitted or received, unless the party offering the same, shall prove the truth thereof by oath or affirmation, as the case may require: And no plea of non est factum offered by the person charged as the obligor or grantor of a deed, shall be admitted or received, unless the truth thereof shall in like manner be proved by oath or affirmation: And where any person other than the obligors, shall be defendant, such defendant shall prove by oath or affirmation, that he or she, verily believes, that the deed on which the action is founded, is not the deed of the person charged as the obligor or grantor thereof; in which last mentioned case, the plea of non est factum shall not be admitted or received without such oath or affirmation. And where a plea in abatement shall upon argument be judged insufficient, the plaintiff shall recover full costs to the time of over-ruling such plea, a lawyer's fee only excepted.

XL. The plaintiff in replevin, and the defendant in all other actions, may plead as many several matters, whether of law or fact, as he shall think necessary for his defence.

Proclamation **XLI.** On the return of the pluries, that the defendant is not to be found, the court, instead of the process to outlawry formerly used, may order a proclamation to issue, warning the defendant to appear at a certain day therein named, or that judgment will be rendered against him, which proclamation shall be published on three successive court-days, at the door of the court-house of the county to which the last process was directed, and also three times in the Virginia gazette; and if the defendant fails to appear pursuant to such proclamation, the same proceedings shall be had, and the same judgment given, as in other cases of default.

Office judgments.

XLII: All judgments by default for want of an appearance, or special bail, or pleas as aforesaid, and non-suits or dismissions obtained in the office, and not set aside, on the third day of the next succeeding district court, shall be entered by the clerk as of that day, which judgment shall be final in actions of debt founded on any specialty, bill, or note in writing, ascertaining the demand, unless the plaintiff shall chuse in any such case to have a writ of enquiry of damages, and in all other cases the damages shall be ascertained by a jury, to be impanelled and sworn to enquire thereof, as is herein after directed.

Dockets.

XLIII. Before every district court, the clerk shall enter in a particular docket, all such causes (and those only) in which an issue is to be tried, or enquiry of damages to be made, or a special verdict, case agreed, demurrer, or other matter of law is to be argued, in the same order as they stand in the course of proceeding, setting as near as may be, an equal number of causes to each day.

Juries de medietate.

XLIV. Juries *de medietate linguæ* may be directed by the court to be summoned.

Jurors, witnesses.

XLV. Jurors knowing any thing relative to the point in issue, shall disclose the same in open court.

Contempts.

XLVI. Any juror guilty of a contempt to the court, shall be fined by the court any sum not exceeding ten pounds.

Papers read in evidence.

XLVII. Papers read in evidence, though not under seal, may be carried from the bar by the jury.

Conduct of sheriffs.

XLVIII. No sheriff shall converse with a juror but by order of the court.

Qualifications of jurors.

XLIX. The qualification of jurors shall be the same as in the general court.

L. The fee for summoning a jury shall be fifty pounds of tobacco, or six shillings and three pence, to be taxed in the bill of costs. Fee for summoning jury.

LI. In all cases where witnesses are required to attend the district court, a summons shall be issued by the clerk, expressing the day and place where they are to appear, the names of the parties to the suit, and in whose behalf summoned. Summons for witnesses.

LII. When any witnesses shall be about to depart the country, or about to go to, or shall be in, the district of Kentucky, or by age, sickness, or otherwise shall be unable to attend the court, upon affidavit thereof, or on a certificate to that effect, from any justice of the peace, the clerk may, on request of either party, award a commission for taking the deposition of such witness *de bene esse*, to be read as evidence at the trial, in case the witness should be unable to attend; but the party obtaining such commission, shall give reasonable notice to the other party, of the time and place of taking the deposition, otherwise the same shall be void. Depositions.

LIII. Upon affidavit that any witness resides beyond sea, or in any foreign country, or in any other of the United States, the court wherein the suit is depending may, on request of either party, direct a commission to issue from the clerk's office, directed to such commissioners not exceeding five, as shall be nominated and agreed upon by the parties litigant, for which purpose, the party applying for a commission in such cases, shall give the adverse party, his attorney or agent, ten days previous notice of the day of his intended application to the court, without which no commission shall issue, and if the adverse party, his attorney or agent, shall not attend for the purpose, in that case the party praying the commission may nominate the commissioners himself, any three of whom in either case may proceed to execute the said commission: *Provided nevertheless*, that in either case reasonable notice shall be given to the adverse party, of the time and place of taking such deposition, and the costs of giving such notice as aforesaid, as well as of taking any deposition or depositions in any, or either of the United States, or beyond sea, or in any foreign country, may be taxed by the court against the party who, in their opinion, ought in justice to pay the same. Foreign commissions.

Single witness.

LIV. If any party in a suit at common law shall make oath, that he verily believes his claim or defence, as the case may be, or a material point thereof, depends on a single witness, the court, or the clerk in vacation, may award a commission to take the deposition of such witness *de bene esse*, although he or she be not about to depart the country, nor under any disability, the party in such case giving reasonable notice of the time and place of taking such deposition to the adverse party.

Witnesses refusing to testify.

LV. If any person summoned as a witness, and attending the court or the commissioners, to take his or her deposition as aforesaid, shall refuse to give evidence upon oath or affirmation, as the case may be, to the best of his or her knowledge, every person so refusing, shall be committed to prison by the court or commissioners, there to remain without bail or main-prize, until he or she shall give such evidence. If any person summoned to appear before commissioners or other persons, to depose or give testimony, shall fail to attend (not having a reasonable excuse) he or she, shall be fined by the court, from whence the subpoena issued, in like manner as witnesses failing to attend the courts. Every witness summoned to appear before the commissioners or referees, shall be intitled to the same allowance, to be certified by the commissioners or referees, and entered of record by the court, to be taxed in the bill of costs, and be privileged from arrests, in like manner as is directed and prescribed by law, for witnesses attending courts.

Allowance to witnesses, before referees, &c.

Who not witnesses.

LVI. No person convicted of perjury shall be capable of being a witness in any case, nor shall any negro, mulatto, or Indian be admitted to give evidence, but against, or between, negroes, mulattoes, or Indians.

Witnesses failing to attend.

LVII. If any person summoned as a witness to attend the district court shall fail to attend accordingly, such person shall be fined five pounds or one thousand pounds of tobacco, at the option of the payer to the use of the party for whom such witness was summoned; and the witness so failing shall farther be liable to the action of the party for all damages sustained by the non-attendance of such witness; but if sufficient cause of his or her inability to attend be shewn to the court at the time he or she ought to have appeared, or at the next

succeeding court, then no fine or action shall be incurred by such failure.

LVIII. Witnesses shall be privileged from arrests **Privileges of**
in all cases except treason, felony and breaches of the **witnesses.**
peace, during their attendance at the District Court,
coming to and returning from thence, allowing one
day for every twenty miles from their places of abode;
and all such arrests shall be void.

LIX. Every witness summoned and attending the **Witnesses at-**
district court, shall be paid by the party at whose **tendance.**
suit the summons issued, two pounds of tobacco or
three-pence per mile, for travelling to the places of at-
tendance, and the same for returning, besides ferriages,
and fifty pounds of tobacco or six shillings and three-
pence per day for his attendance; which allowance
shall be entered by the clerk of course, except where
disputes arise concerning the same, and then such dis-
putes shall be determined by the court. Witnesses in
civil cases, and witnesses and venire-men in criminal
cases, shall be sworn as to their travelling, ferriages,
and attendance; for which purpose, and for affidavits
justifying securities to bonds to be taken in the clerk's
office, he or some of his assistants, specially empower-
ed by the court of the district, shall administer the
oaths.

LX. Interpreters may be sworn truly to interpret **Interpreters.**
when necessary.

LXI. Every person desirous of suffering a non-suit, **Non-suit.**
on trial shall be barred therefrom, unless he do so be-
fore the jury retire from the bar.

LXII. Not more than two new trials shall be gran- **New trials.**
ted to the same party in the same cause.

LXIII. The statutes of Jeoffails which were passed **Jeoffails.**
prior to the year one thousand seven hundred and fifty
three, are declared to be in force.

LXIV. After issue joined in an ejectment, on the **Ejectments.**
title only, no exception of form or substance shall be
taken to the declaration in any court whatsoever.

LXV. Any instrument, to which the person making **Scrolls.**
the same, shall affix a scroll by way of seal, shall be
adjudged and holden to be of the same force and obli-
gation, as if it were actually sealed.

LXVI. If in detainue the verdict should omit price **Detinue.**
or value, the court may at any time award a writ of
enquiry to ascertain the same.

Part of issue found. LXVII. If on an issue concerning several things in one count in detinue, no verdict be found for part of them, it shall not be error, but the plaintiff shall be barred of his title to the things omitted.

Faulty count LXVIII. Where there are several counts, one of which is faulty, and entire damages are given, the verdict shall be good; but the defendant may apply to the court, to instruct the jury to disregard such faulty count.

Confession of judgment. LXIX. A judgment on confession shall be equal to a release of errors.

Lawyers fees LXX. In all judgments for plaintiff or defendant, the clerk shall allow a lawyer's fee in the bill of costs, if the party employed one, which fee, in real, personal, or mixed actions, where the title or bounds of land shall, or may come in question, shall be thirty shillings, or two hundred and forty pounds of tobacco, and in all other causes, fifteen shillings or one hundred and twenty pounds of tobacco, at the election of the party paying, except in causes transferred from the general court, in which the fee taxed shall be the same as now taxed in the general court: *Provided*, that this shall not be construed to alter the law, as to costs to be paid or not to be paid, by executors or administrators, which shall remain as heretofore.

Witnesses to a fact costs. LXXI. There shall not be allowed in the bill of costs, the charge of more than three witnesses for the proof of any one particular fact.

Costs. LXXII. The laws of costs shall not be interpreted as penal laws.

LXXIII. The district court shall possess the same power over costs, as the general court now possesses.

Executions. LXXIV. Executions shall issue to any sheriff or coroner from the clerks of the district courts, and be returnable to the first day thereof.

Not directed. LXXV. An execution, writ, or other process, appearing to be duly served in other respects, shall be deemed good, although it be not directed to any sheriff.

Distringas. LXXVI. If a distringas issue in detinue, the court, for good cause shewn, may direct it to be superseded, so far as it respects the specific thing, and to be executed for the alternative price or value only, if fixed in

the judgment, or if the same shall afterwards be fixed by a writ of enquiry.

LXXVII. Upon any judgment in a district court, or in a county, or other inferior court, in case the defendant, on the service of an execution, would have a right by law to replevy his estate, by giving security for payment of the money or tobacco recovered at a future day; such defendant may enter into bond with security for such payment, in the clerk's office, or to the sheriff, if execution be issued at any time before seizure, or within five days after paying for the same to the clerk or sheriff, a fee of five shillings; and the sheriff shall be entitled to no farther, or other fee upon such execution, and shall return such bond to the clerk's office; and upon all bonds thus given, there shall be the same proceedings as the laws direct on replevy bonds, taken after an execution levied on the estate.

Replevy
bonds, in
clerk's office.

LXXVIII. If a replevy-bond be quashed as faulty, the sheriff taking the same shall be at all times liable for damages to the party injured, or his representatives.

Replevy
bonds, quash-
ed.

LXXIX. Notice on replevy-bonds, and all other legal occasions, wherein no particular mode is, or shall be, prescribed, shall be good if given to the party in person, or delivered in writing to any free white person above the age of sixteen years, who shall be a member of the family of such person, and shall be informed of the purport of such notice, or left at some public place at the dwelling house, or other known place of residence of such person.

Notices, what
good.

LXXX. For preventing errors in entering up the judgments of the said courts, the proceedings of every day shall be drawn up at large by the clerk, against the next sitting of the court, when the same shall be read in open court, and such corrections, as are necessary being made therein, they shall be signed by the presiding judge, and carefully preserved among the records.

Records.

LXXXI. On the last day of each court, the proceedings therein shall be drawn up, read, corrected, signed and preserved as aforesaid.

LXXXII. When any cause shall be finally determined, the clerk of the district court shall enter all the pleadings and papers, filed as evidence therein, and the judgment thereupon, so as to make a complete re-

Making up
records.

cord thereof; and those, wherein the title of lands is determined, shall be entered in a separate book to be kept for that purpose.

Scire facias

LXXXIII. On writs of scire facias for renewal of judgments, no judgment shall be rendered on the return of two nihilis, unless the defendant reside in the district, or unless he be absent from the commonwealth, and have no known attorney within the same. But such scire facias may be directed to the sheriff of any county in this commonwealth, wherein the defendant or his attorney shall reside, or be found, which being returned served, the court may proceed to judgment thereon, as if the defendant had resided in the district.

Certiorari.

LXXXIV. If any person or persons shall desire to remove any suit depending in any inferior court into the district court, provided the same be originally cognizable therein, a certiorari for such removal may be granted by the district court, for good cause shewn, upon motion, and ten days previous notice thereof given in writing to the adverse party; or in vacation, the party desiring such writ, shall by petition to the judges of the general court, set forth his or her reason-, and make oath before a magistrate to the truth of the allegations of such petition, whereupon any judge of the said court may, under his hand, order the certiorari to issue, and direct the penalty of the bond to be taken previous thereto, or may reject such petition as to him shall seem just; provided that ten days previous notice of the time and place of applying for such writ be given in writing to the adverse party, upon which order of the judges the clerk shall issue the certiorari; *Provided* That the party shall enter into bond with sufficient security, in the penalty so directed, with condition for satisfying all money or tobacco, and costs, which shall be recovered against the party in such suit; but if any suit so removed by writ of certiorari shall be remanded to the inferior court by procedendo or otherwise, such cause shall not afterwards be removed to the district court, before judgment shall be given therein in the inferior court.

LXXXV. The clerks of the district courts shall carefully preserve all such petitions for writs of certiorari with the affidavits thereto in the office: and if any person in such affidavit shall wilfully make a false oath, and be thereof convicted, upon a prosecution

commenced within twelve months after the offence committed, such offender shall suffer the pains and penalties directed for wilful and corrupt perjury.

LXXXVI. No writ of error or supersedeas shall be granted in any case, until a final judgment in the county or other inferior court. No supersedeas or writ of error shall be granted to any judgment in the district, or 'county, or other inferior court after the expiration of five years from and after the date thereof, in case of judgments hereafter to be obtained or after the first day of January, one thousand seven hundred and ninety three, in case of judgments already obtained; saving the rights of infants, femescouvert, persons non-compos, in prison, or beyond seas, until the expiration of two years after the disability ceases. Supersedeas.

LXXXVII. Where any person or persons, body politic or corporate, shall think themselves aggrieved by the judgment or sentence of any county court, or court of hustings, in any action, suit, or contest whatsoever, where the debt or damages or other thing recovered or claimed in such suit exclusive of the costs shall be of the value of thirty pounds, or three thousand pounds of tobacco or upwards, or where the title or bounds of land shall be drawn in question, or the contest shall be concerning mills, roads, the probate of wills, or certificates for obtaining administration, such person or persons, body politic or corporate, may enter an appeal from such judgment or sentence, to the first day of the next court of the district, in which such county is. Appeals.

LXXXVIII. The party praying a writ of supersedeas, shall petition the district court for the same, pointing out the errors he means to assign in the proceedings, and procure some attorney practising in such courts respectively, to certify, that in his opinion, there is sufficient matter of error, for reversing the judgment, whereupon such courts in their session, or any judge of such courts respectively in vacation, may order such writ to be issued, or reject the petition, as to them shall seem just, but no supersedeas shall be issued in any case, except such as in respect to its value or nature, would have admitted of an appeal. Petitions for supersedeas.

LXXXIX. Writs of error or supersedeas, may be granted by the district court to any judgment of the Jurisdiction as to.

county court, above the value of ten pounds or one thousand pounds of tobacco.

Bonds.

XC. Before granting any appeal, or the issuing of any writ of error or supersedeas, the party praying the same, shall enter into bond with sufficient security, in a penalty to be fixed by the court or judge granting the same, with condition to pay the amount of the recovery, and all costs and damages awarded, in case the judgment or sentence be affirmed. Where several appeal, or obtain a writ of error or supersedeas, bond and security given by any party shall be sufficient.

Judgment.

XCI. If upon hearing any writ of error or supersedeas, the judgment of the inferior court be reversed in whole or in part, the district court shall enter such judgment thereupon, as ought to have been entered in the inferior court.

Bonds by whom.

XCII. Bonds to be given in court for obtaining writs of error, supersedeas, certiorari, appeals, or any other cause, shall be valid and sufficient if given by a responsible person and security, although the party interested in the event of the suit be not an obligor.

Damages in personal actions.

XCIII. Where the defendant in any personal action appeals, or obtains such writ of error or supersedeas, if the judgment be affirmed, the damages besides costs shall be ten per centum per annum, upon the principal sum and costs, recovered in the inferior court, in satisfaction of all damages or interest.

In real or mixed.

XCIV. In real or mixed actions the damages shall be ten pounds, or two thousand pounds of tobacco, besides costs, and where the plaintiff appeals in any action, if the judgment be affirmed, and in all controversies about mills, roads, probat of wills, or certificates for administration, if the sentence of the inferior court be affirmed, the party appealing shall pay to the other all costs.

Criminal cases.

XCV. When any person not being a slave, shall be charged before a justice of the peace with any criminal offence, which in the opinion of such justice ought to be examined into by the county court, the said justice shall take the recognizance of all material witnesses to appear before such county court, and immediately by his warrant commit the person so charged to the county jail, and moreover shall issue his warrant to the sheriff of the county, requiring him to summon the justices of the county to meet at their courthouse on a

certain day, not less than five nor more than ten days after the date thereof, to hold a court for the examination of the fact, which court shall consider whether, as the case may appear to them, the prisoner may be discharged from further prosecution, may be tried in the county or must be tried in the district court; and if they shall be of opinion that the fact may be tried in the county, the prisoner shall be bound over to the next grand-jury to be held for that county for trial, or upon refusing to give sufficient bail, shall be remanded to the county jail, there to remain until such court, or until he or she shall be bailed; but if they shall be of opinion that the prisoner ought to be tried in the district court, they shall take the depositions of the witnesses, and bind such, as they shall think proper, by recognizance, to appear and give evidence against such criminal at his or her trial, and having remanded the prisoner to jail, any two of the justices, one being of the quorum, by warrant under their hands and seals, shall direct the sheriff or his deputy to remove the prisoner and commit him or her to the district jail, there to be safely kept until he or she shall be discharged by due course of law; by virtue of which warrant the sheriff, as soon as may be, shall remove the prisoner and deliver him or her with the warrant to the keeper of the district jail, who shall receive and safely keep him or her accordingly. And for enabling the sheriff safely to convey and deliver such prisoner, the said two justices, by their warrant, shall empower him, as well within his county, as without, to impress such and so many men, horses, and boats, as shall be necessary for the guard and safe conveyance of the prisoner, proceeding therein as the law may direct in cases of impressing on other occasions; and all persons are to pay due obedience to such warrant. *Provided*, That if such prisoner shall, in the opinion of the court, be bailable by law, he or she shall not be removed within twenty days after the examining court, but shall and may be admitted to bail before any justice of the same county within that time, or at any time afterwards, before any judge of the general court:

XCVI. A public jailor shall be appointed to each Public jailor. district by the governor and council, shall give bond and security to the governor and his successors, as the public jailor in the city of Richmond now does, and

shall be amenable to the judges of such court, in like manner as the keeper of the public jail hath heretofore been to the judges of the general court. And the judges attending each district court shall have authority to superintend and regulate the district jail, in the same manner as the general court had to regulate and superintend the public jail.

His privileges.

XCVII. The jailor, during his continuance in office, shall be exempted from serving in the militia, and on juries, and shall have such allowance, over and above the fees, as by the general assembly shall be thought reasonable.

His duty.

XCVIII. The keeper of the district jail shall constantly attend the said court, and execute the command of the said court, from time to time, and take or receive into his custody all persons by the court to him committed on original or mesne process, or in execution in any civil suit, or for any contempt of the court, and him or them safely keep until thence discharged by due course of law, and may demand of every such prisoner the legal fees for diet and care; but where such prisoner is so poor as not to be able to support him or herself in prison, the jailor shall be allowed by the public one shilling, per day, for the maintenance of every such poor prisoner, and no security shall be demanded of him, or her, nor shall he, or she, be detained for such prison fees.

Guards.

XCIX. The keeper of the district jail, by order of any two justices of his county, may impress guards for the safe-keeping of all prisoners in his custody, to be paid by the public.

Diet of prisoners.

C. The fee to the sheriff of the county, and to the district jailor, for keeping and dieting any such prisoner, shall be one shilling, per day.

Witnesses for prisoners.

CI. If a prisoner shall desire any witnesses to be summoned for him or her to appear, either at the examining court, or on the trial at the district court, the clerk of the said court or of the county court (as the case may be) shall issue subpoenas for such witnesses, who, being summoned and attending, shall have the like allowance for travelling and attendance, and be subject to the same penalty for failing to attend, as is provided for witnesses in civil cases.

Records of criminal cases.

CII. When any person shall be so removed to be tried for treason or felony, the clerk of the county

from whence the prisoner is removed, shall, immediately after the court holden for his or her examination, transmit to the attorney for the commonwealth in the district court, a copy of the warrant for his or her commitment, and of the depositions taken on the examination, and shall moreover issue a writ of venire facias to the sheriff of the county, commanding him to summon twelve good and lawful men, being freeholders of the county, residing, as near as may be, to the place where the fact is alledged to have been committed, to come before the district court on the first day of its next session, and return a pannel of their names; which freeholders, or so many of them as shall appear, not being challenged, together with so many other good and lawful freeholders of the bystanders, as will make up the number twelve, shall be a lawful jury for the trial of such prisoner.

CIII. Every venire-man summoned and attending the district court, shall have the same allowance for travelling and attendance, as is herein provided for witnesses, to be paid by the public. Allowance to venire men.

CIV. If any person summoned as a venire-man, shall fail to attend accordingly, not having a reasonable excuse, to be made at the time he should have appeared, or at the next district court, every such person may be fined by the court, not exceeding forty shillings, or four hundred pounds of tobacco, for the use of the commonwealth. Failing to attend.

CV. The clerk of the district court shall, in a book by him kept for that purpose, enter the names of all the venire-men and witnesses who attend for the trial of criminals at such court, the number of days each shall attend, the ferries they shall have crossed, and the distances they shall have travelled on that occasion, and shall give certificates for the same, which shall be paid in the manner directed by law. Entering witnesses allowances.

CVI. The sheriff for the time being of the county, in which the district court is holden, shall, before every meeting of the district court, summon twenty-four freeholders of the district, qualified as the laws require for grand jurors, to appear at the succeeding district court, on the first day thereof, which the said sheriff is hereby empowered to do, as well without his county, as within the same; and the said twenty-four men, or any sixteen of them, shall be a grand jury, and shall enquire Grand juries.

of, and present, all treasons, murders, felonies, or other misdemeanors whatever, which shall have been committed or done within the district; and upon any indictment for a capital offence being found by a grand jury to be true, against any person or persons, the judges shall cause such person or persons to be immediately arraigned and tried by a petit jury, summoned as herein before directed; and he, she, or they, being found guilty, pass judgment as the laws direct, and thereupon award execution, and if the prisoner shall be found not guilty, to acquit him or her of the charge. *Provided*, that in all trials, the defendant shall be allowed counsel; and that, when sentence shall be passed upon any prisoner, there shall be one calendar month at least between the judgment and execution. *Provided also*, that in case of the sickness, death, or non-attendance of any grand juror or grand jurors, after he or they shall be sworn, it shall be lawful for the court to cause others to be sworn in his or their stead.

Presentments.

CVII. No grand jury shall make any presentment of their own knowledge, upon information of fewer than two of their own body, nor where the penalty inflicted by law is less than twenty shillings or two hundred pounds of tobacco.

Failing to attend.

CVIII. Every person summoned to appear on a grand jury, and failing to attend, not having a reasonable excuse, shall be fined by the court, not exceeding four hundred pounds of tobacco, to the use of the commonwealth.

Process on presentments.

CIX. Upon presentment made by the grand jury of an offence not capital, the court shall order the clerk to issue a summons, or other proper process against the person or persons so presented, to appear and answer such presentment at the next court, and thereupon hear and determine the same according to law.

Attornies for commonwealth.

CX. It shall be the duty of the attorney general to nominate and appoint proper persons to prosecute for the commonwealth, in such courts as he cannot attend himself.

Prison rules.

CXI. Prison rules and bounds shall be assigned by the district courts.

Costs of prosecution.

CXII. Where the prisoner shall be convicted, and hath estate sufficient to pay the charges of prosecution, the whole shall be paid out of such estate, and the pub-

lic only made chargeable where there is no estate, or not sufficient to be found.

CXIII. If any criminals sent for trial to the general court shall not have been tried at their session in December, one thousand seven hundred and eighty-eight; or if any criminals so sent from the county court, or shall hereafter be sent for trial to the general court, it shall be lawful for the executive, upon application of the attorney general, to cause such criminals to be sent to the district from whence they came. *Provided always*, that it shall be lawful for any judge of the general court to admit such criminals to bail for their appearance at the district court, in all cases bailable by law. Criminals.

CXIV. The several suits which shall be depending in the general court at the time of the commencement of this act (except appeals, writs of error, or superseas, and such others wherein there shall be a special verdict, case agreed, motion in arrest of judgment, or point of law reserved) shall be arranged by the clerk thereof to the districts of the counties wherein the original writs or process were respectively served, according to the directions of this act, and with the papers therein, and a state of the costs to that time in each, as well of plaintiff as defendant, delivered to the several clerks of the districts to which they respectively belong, who shall docket the same according to the order of priority of commencement, those at issue, or in which writs of enquiry are to be executed on the court docket to be tried at the next district term, and all others on his rule-docket, to be proceeded in at the rules as is herein before directed for original suits, regarding the progress made therein at the time. Suits transmitted from general to district court.

CXV. The sessions of the general court shall be holden at the capitol in the city of Richmond, and shall begin on the ninth day of June, and the ninth day of November, in each year, or when either of those days happen to be Sunday, then on the next day, and shall continue sixteen juridical days each, unless all the business before them be sooner dispatched. Terms of general court.

CXVI. Three judges shall constitute a general court, except in the case of impeachment, on which occasion, a majority of the whole number shall be necessary. Judges.

**Jurisdiction
of general
court.**

CXVII. The said general court shall continue to have jurisdiction over all causes depending therein at the commencement of this act, by appeal, writ of error, supersedeas, or mandamus, or scire facias on judgments therein, or in which there hath been a special verdict, case agreed, errors assigned in arrest of judgment, demurrer to evidence, or point of law reserved, but in none other of the suits so depending, which shall be sent to and tried in the respective district courts as is herein before directed: And that writs of scire facias may be issued from, and tried in the general court, upon all judgments which have been or shall be obtained therein, the said court may fine sheriffs, deputy sheriffs, or coroners, for not returning executions issued, or to be issued from the said court, and enter up judgments against the said officers for all money or tobacco for which they have made, or shall make themselves respectively liable by law to judgments upon such executions; may award executions upon replevy bonds, or bonds to have goods forthcoming at the day of sale, if by law such bond shall continue to be authorised; may quash executions as illegally or improvidently issued or executed, and award new ones; or finally may exercise full jurisdiction in every other legal mode necessary for carrying into complete execution all judgments heretofore given, or hereafter to be given, in the said court, in like manner as if this act had never been made. The said court shall also have power to issue writs of mandamus to the district courts. But no original suit shall, after the commencement of this act, be brought into the said general court, nor shall the said court exercise any power, jurisdiction, or authority, in any causes, civil or criminal, except what is by this act, or may, by law, be expressly given to the said court, motions, suits, and other proceedings, now depending, or that may be hereafter brought by the solicitor against public debtors, and public defaulters of every denomination, for and on behalf of the commonwealth; and the cases of impeachment directed by the constitution or form of government to be tried in the general court.

**Common or
ders.**

CXVIII. If at the commencement of the district courts, a common order shall have been confirmed, but shall not have been made final, it may be set aside on the usual terms, on the third day of the succeeding

general court: If it be not set aside, it shall be considered as a judgment obtained before the commencement of the district courts. The general court shall also at any time rectify any improper dismissions in their own court, or the office of their clerk, and shall send any suit which may be reinstated, to the proper district. The general court shall also direct to what districts those suits shall be sent in which writs were not served, or were not directed to any sheriff; having regard, as far as can be ascertained, to the residence of the defendant. The said courts shall have the same power to issue commissions for examining witnesses respecting any matter depending before them, as is hereby given to the district courts. Writs of execution, scire facias, or other legal process, sued out of the general court, shall be returnable to the first day thereof.

CXIX. For good cause shewn, the general court **Trials at bar.** may direct a trial by jury at their own bar of any cause depending before a district court, for which purpose they may order the sheriff, or any other officer attending them, to summon a jury, qualified as the law now directs in the cases of juries in the general court.

CXX. For good cause shewn the general court may **Change of venue.** change the venue in any suit depending in the district courts.

CXXI. If a judge allotted to a district court be **Judges interested.** interested in the event of any suit, the general court shall, upon application to them made, change the venue and cause a trial at bar.

CXXII. If before the commencement of this act, **Appeals.** any appeal or supersedeas should be entered or obtained to a judgment or decree of any inferior court, the same shall be tried before the general court, as the said court shall be arranged under this act.

CXXIII. Deeds partly proved in the general court **Deeds.** shall be retained there for full proof.

CXXIV. The general court shall retain jurisdiction **Wills.** over all wills, partly proved, or now under contest before them.

CXXV. Traverses to inquisitions now depending in **Inquisitions.** the general court shall be retained and determined there.

Process.

CXXVI. All process awarded since the general court in October last, and returnable to the said court, all declarations in ejectment, and other things hereafter returnable to the general court, shall continue to be returnable thereto. And the clerk of the general court upon his receiving the same, or if they should not be received before the first day of the next session of the said court, shall distribute the causes and matters to which they belong, to the proper and respective districts, according to the directions of this act.

Tax on law process.

CXXVII. A tax of six shillings shall be, and is hereby, imposed on all final judgments in the district court, which shall be paid by the party obtaining the same to the clerk of the court, before such judgment shall be entered, and taxed in the bill of costs; and in all other respects, the tax on process in the district courts shall be the same, and be taxed in the bill of costs in like manner, as is by law directed concerning process in the general court; and the taxes on deeds, wills, and administrations, and on appeals from the district courts, and also on attornies practising therein, shall be the same; to be collected, accounted for, and paid by the clerks, respectively, in like manner, and subject to the same mode of proceeding against them for default, as is directed for the like taxes in the county courts.

Impeachments.

CXXVIII. No person shall be found guilty on an impeachment but by a jury; for which purpose the clerk of the said court, as soon as such impeachment shall be notified to him by the attorney general, or any other person or persons appointed by the house of delegates to prosecute the same, shall issue a venire facias to the sheriffs of the senatorial district, wherein the person accused resides; commanding them to summon in their counties to the first day of the next succeeding court of appeals, in proportions as nearly equal as possible, twenty-four jurors, qualified according to law for the trial of other criminal cases; which process may be repeated by order of the court as often as it shall be necessary. The prosecutor for the commonwealth, and the person accused, shall, in open court, alternately strike one, until the number shall be reduced to twelve; which remaining twelve shall be a jury, and shall try the impeachment, render a verdict, and

proceed in the same manner, as is prescribed in the case of an indictment in the general court. The jurors, who shall attend on summons, shall have the same allowance, and be subject to the like penalties, as in the case of venire-men attending the district courts.— If twenty-four jurors should not appear, bystanders may be summoned to make up the deficiency. The party accused may have one or more counsel, without petitioning the said court.

CXXIX. No impeachment shall be tried during the session of the general assembly, unless the party accused shall request it.

CXXX. It shall be lawful for any person impeached to challenge, for good cause, any juror, either before or after the names shall be struck.

CXXXI. If a majority of the judges of the general court be interested in any suit, which, in the case of any other person, would have been proper for the jurisdiction of such court, it may be lawful to institute such suit under this act in the high court of chancery, where proceedings shall be had conformably to the rules of the general court; and process shall be returnable as the high court of chancery shall direct; and thereafter an appeal may be entered to the court of appeals. Judges interested.

CXXXII. The clerk of each district court shall, annually, before the last day of January, transmit to the sheriff of each county within the district, a list of all fines imposed by the district court, in the year next preceding, to the use of the commonwealth, on persons residing in such county; and the sheriffs shall, respectively, proceed to collect, levy, account for, and pay, the same in like manner, and subject to the same remedy and proceedings against them for default, as is or shall be directed in case of public taxes, being allowed in their accounts for insolvents, and five per centum commissions; and the said clerks shall severally transmit copies of such lists to the solicitor general, to enable him to call the sheriffs to account. List of fines.

CXXXIII. An act passed at the October session, one thousand seven hundred and eighty-seven, intitled, "An act establishing district courts," and so much of all former laws as is contrary to this act, shall be, and the same is, hereby repealed.

CHAP. LXVIII.

An act for amending the act, intituled An act constituting the court of appeals.

[Passed the 22d of December, 1788]

Court of appeals how many judges.

I. *BE it enacted by the General Assembly, That* the court of appeals shall consist of five judges, who shall be chosen from time to time, by the joint ballot of both houses of assembly, shall be commissioned by the governor, and shall, respectively, continue in office during good behaviour.

II. Any three of the said judges shall constitute a court.

Where to set.

III. The said court shall be holden at the capitol in the city of Richmond, or at such other place, as shall be appointed by the general assembly, or in their recess, by the governor, with the advice of the council of state, on any such emergency, as will make the adjournment of any other of the supreme courts lawful.

Terms.

IV. The said court shall be holden twice in every year, namely, on the twentieth day of June, and the twentieth day of November, or when that shall happen to be Sunday, on the succeeding day, and shall sit each time until the business depending before them shall be dispatched.

Impeachments.

V. No person shall be found guilty on an impeachment, but by a jury; for which purpose the clerk of the said court, as soon as such impeachment shall be notified to him by the attorney-general, or any other person or persons appointed by the house of delegates to prosecute the same, shall issue a venire facias to the sheriffs of the senatorial district, wherein the person accused resides, commanding them to summon in their counties, to the first day of the next succeeding court of appeals, in proportions as nearly equal as possible, twenty-four jurors, qualified according to law for the trial of other criminal cases, which process may be repeated by order of the court as often as it shall be necessary. The prosecutor for the commonwealth, and the person accused, shall, in open court, alternately

strike one, until the number shall be reduced to twelve; which remaining twelve shall be a jury, and shall try the impeachment, render a verdict, and proceed in the same manner, as is prescribed in the case of an indictment in the general court. The jurors shall have the same allowance, and be subject to like penalties, as in the case of venire-men attending the district courts. If twenty-four jurors should not appear, bystanders may be summoned to make up the deficiency.

VI. A person impeached, may for good cause, challenge a juror. The party accused may have one or more counsel, without petitioning the said court.

VII. No impeachment shall be tried during the session of the general assembly, unless the party accused shall request it.

VIII. If a vacancy shall happen in the office of clerk out of the terms of the said court, it shall be lawful for a majority of the judges by commission under their hands and seals, to appoint. Clerks.

IX. If any one of the judges of the court of appeals be interested in any suit finally decided in the high court of chancery, an appeal, if prayed for, shall be to the general court. If such judge be interested in any suit finally decided in the general court, such appeal shall be to the high court of chancery; and in either case the decision of the high court of chancery, or general court, shall be final, in any suit now depending or which may hereafter be brought in the district court of Kentucky, in which either of the judges of the said court shall be interested, and without whose opinion there cannot be a decision therein: the court shall adjourn all matters in law and equity arising in such suit, to the superior court of appeals of this commonwealth, whose judgment shall be final therein. Judges interested.

X. Where several obtain an appeal, writ of error, or supersedeas, to or from any judgment of a district court, bond given by any party shall be sufficient. Bond in appeals.

XI. Nothing in this act contained shall be construed in any manner to affect any suits now depending before the said court, or any decree, judgment, sentence, or order hitherto given therein; but the same shall remain as if this act had never been made. *Provided always*, That the suits now depending before the said court, shall be finally decided by the court of appeals, as it is now constituted by law. For which pur- Special term of court.

pose they shall hold a term at the capitol in the city of Richmond, on the second day of March next, and shall sit until the same shall be concluded. If, however, the court of appeals shall think it advisable from any reason, which may prevent an immediate decision, to adjourn to another day, it shall be lawful for them so to do. But the adjournment of the said court for the purpose of finishing the old business, shall not affect or retard the jurisdiction of the said court as it shall stand under this act. The judges of the court of appeals appointed under this act, may take the oath of fidelity and of office, before the executive, or any justice of the peace, a certificate whereof shall be recorded in the said court.

Former acts
how far in
force.

XII. The several acts of the general assembly concerning the court of appeals, as it is at present constituted, shall be pursued and observed, *mutatis mutandis*, as far as it is not, or shall not, be otherwise directed by this or a future act or acts. *Provided always*, That appeals, writs of error, and supersedeas, may be granted, heard, and determined by the court of appeals to and from any final judgment given in the district courts, in the same manner, and on the same principles, as appeals, writs of error, or supersedeas, are to be granted, heard, and determined by the district courts, to and from any final judgment given in the county courts.

XIII. So much of any act or acts of assembly, as comes within the purview of this act, shall be, and is hereby repealed.

XIV. This act shall commence, and be in force on the first day of January, in the year of our Lord, one thousand seven hundred and eighty-nine.

CHAP. LXIX.

*An act for amending the several acts
of the general assembly, concern-
ing the high court of chancery.*

[Passed the 22d of December, 1788.]

When high
court of chan-
cery reduced
to one.

1. *BE it enacted by the General Assembly*, That as soon as a sufficient number of vacancies shall take

place to permit the reduction of the present number of judges in the high court of chancery, the said court shall consist of one, who shall either be one of the present judges, or shall be chosen from time to time, by the joint ballot of both houses of assembly, shall be commissioned by the governor, and shall continue in office during good behaviour.

II. The said court shall be holden at the capitol in the city of Richmond, or at such other place, as shall be appointed by the general assembly, or, in their recess, by the governor, with the advice of the council of state, on any such emergency, as will make the adjournment of any other of the supreme courts lawful. Where court held.

• III. The said court shall be holden four times in every year, namely, on the first day, or when that shall happen to be Sunday, on the second day of March; on the twelfth day, or when that shall happen to be Sunday, on the thirteenth day of May; on the first day, or when that shall happen to be Sunday, on the second day of August; on the twelfth day, or when that shall happen to be Sunday, on the thirteenth day of October; and the sessions in the months of May and October shall continue for twenty four juridical days successively, dele, and those in the months of March and August, for twelve juridical days successively, unless the business depending before the said court, shall be sooner dispatched. Terms

IV. It shall be lawful for the said court to arrange the business thereof, in the most convenient and equitable manner. Court may arrange business.

V. It shall be lawful for the high court of chancery in such cases, as may require a report, which cannot be performed by the court without great delay to other business, to employ one or more commissioners and to cause a reasonable allowance to be taxed in the bill of costs. Commissioners in chancery.

VI. The high court of chancery may grant commissions for the taking of depositions beyond the limits of this commonwealth. Foreign commissions.

VII. If the judge of the high court of chancery shall be interested in any matter, which in the case of any other person would have been proper for the jurisdiction of such court, it may be lawful to institute such suit under this act in the general court, where proceedings shall be had conformably to the principles Judge interested.

and usages of equity; and process shall be returnable as the general court shall direct, and thereafter an appeal may be had to the court of appeals.

Issue to general court. VIII. It shall be lawful for the high court of chancery to send any matter of law to the general court, for their opinion to be certified thereon.

Adjournment IX. If the judge shall not attend on the first day of the term, such court shall stand adjourned from day to day, until a court shall be made, if that happen before four of the clock in the afternoon of the sixth day.

Continuance of causes. X. If a court shall not sit in any term, or shall not continue to sit the whole term, or before the end of the term, shall not have heard and determined all matters ready for its decision, all such suits and things depending in court and undecided, shall stand, continued to the next succeeding term. If from any cause the court shall not sit on any day in a term after it shall have been opened, there shall be no discontinuance. But so soon as the cause is removed, the court shall proceed to business until the end of the term, if the business depending before it be not sooner dispatched.

XI. So much of every act as comes within the purview of this act, is hereby repealed.

XII. This act shall commence in force on the first day of January one thousand seven hundred and eighty-nine.

CHAP. LXX.

An act allowing travelling expences to the judges of the general court.

[Passed the 23d of December, 1788.]

Travelling expences allowed to judges of general court. I. *BE it enacted by the General Assembly, That* in consideration of the additional services, to be performed by the judges of the general court as judges of the district courts, they shall receive (exclusive of their salaries, established by law) each, the sum of six pence per mile for travelling to and from the courts of their respective circuits. The treasurer shall half yearly advance to each of the said judges upon the allowance

hereby made to them, a sum for travelling expences, not exceeding twenty five pounds; to be accounted for by them respectively.

CHAP. LXXI.

An act concerning the court of admiralty, and the judges thereof.

[Passed the 25th of December, 1788.]

I. WHEREAS by the constitution for the United States of America it is, among other things provided, that the judicial power thereof shall extend to all cases of admiralty and maritime jurisdiction; and Richard Cary, James Henry, and John Tyler, esquires, judges of the court of admiralty within this commonwealth, have been appointed judges of the general court, and are intitled to the emoluments of office, as such: *Be it enacted by the General Assembly*, that from and after the passing of this act, the salaries allowed by law to the said judges, shall be discontinued.

II. From and after the first Wednesday in March, which shall be in the year of our Lord one thousand seven hundred and eighty nine, the said court of admiralty shall be also discontinued.

III. But nothing contained in this act or in the act, intituled "An act establishing district courts, and regulating the General Court," shall be construed to transfer any matter, or thing, now cognizable in the said court of admiralty, to the district courts, until the first Wednesday in March, in the year aforesaid. And every cause, suit, process, matter, or thing, depending in the said court at the passing of this act, or the above recited act, or which may be brought therein, before the day and year aforesaid, shall be proceeded in, heard, determined, executed, and concluded according to the same principles, rules, forms, and manner, as would have prevailed had this act, or the above recited act, never been made.

IV. All acts, and parts of acts, concerning the court of admiralty and the judges thereof, except so much of the said acts, as is retained and continued by the above recited act, shall be, and are hereby repealed.

CHAP. LXXII.

An act concerning the general court.

[Passed the 25th of December, 1788.]

I. WHEREAS three of the judges of the general court, to wit: Paul Carrington, Peter Lyons, and William Fleming, esquires, have been appointed judges of the court of appeals during the present session of the general assembly, and it is inexpedient that the said general court should consist of more than ten judges, *Be it enacted by the General Assembly*, that from and after the passing of this act, there shall be ten judges only of the said general court, who are to be allotted to the district courts. That any three of the said ten shall constitute a general court in all cases, except those of impeachment, and that in cases of impeachment, a majority only shall constitute a general court.

II. And in order that no doubts may arise as to the holding district courts in the months of April and May next, *Be it further enacted*, That the allotment of judges to the several district courts shall be made without delay, and such allotment may be recorded at any future general court: any thing in any act notwithstanding. *Provided always*, that the clerk of the general court may continue to issue original process for the commencement of any suit in the general court until the first day of February, one thousand seven hundred and eighty nine, and returnable to the first court which shall be holden for the district in which the defendant resides, under the same regulations and provisions as prescribed before the passing of the above recited act, and every such suit shall be sent to its proper district, according to the directions of the said act.

CHAP. LXXIII.

An act directing at what places the superior and county courts shall be holden, if the courthouses appointed by law should be destroyed.

[Passed the 22d of Decemer, 1788.]

I. *BE* it enacted by the General Assembly, That it shall be lawful for the executive whensoever any building or buildings duly appointed for the holding of any court shall be destroyed, by proclamation to direct such court to be holden in any other building or buildings until the buildings or building so destroyed shall be rebuilt. *Provided always*, That the court of appeals, high court of chancery and general court, shall continue to be holden in the city of Richmond, the district courts in the counties in which they are appointed to be holden by law, and the county courts within their respective counties.

CHAP. LXXIV.

An act for granting relief to sheriffs and collectors of the public revenue in certain cases.

[Passed the 26th of December, 1788.]

I. WHEREAS it hath been represented to the present general assembly, that many counties in the commonwealth have been disabled to pay their taxes by accidents and distresses, which could not be avoided; but it is the duty of the legislature carefully to distinguish such as ask indulgence for the reasons aforesaid, from those, whose pretensions to relief are not well founded: And whereas many sheriffs indebted to the commonwealth for taxes actually received, have failed

Relief to sheriffs and collectors of taxes in certain cases.

to account for the same according to law, from a hope of relief, which, after a given day, ought to be taken away, *Be it enacted by the General Assembly*, that every sheriff, collector, and his security or securities, indebted to the commonwealth for taxes, which became due prior to the first day of November, in the year of our Lord one thousand seven hundred and eighty-eight, and against whom no judgment hath been or shall be obtained before the passing of this act, may discharge the same on or before the first day of June, which shall be in the year of our Lord one thousand seven hundred and eighty nine, by the payment of the principal sum, agreeable to the laws under which he shall have collected it, although judgment shall be obtained against him before the said first day of June in the year last mentioned; and the solicitor is hereby instructed to proceed without delay in obtaining judgments against such sheriffs or collectors, and shall issue executions thereupon immediately after the said first day of June: *Provided always*, that it shall not be lawful for the executive to suspend such execution, or to remit any part of the damages or interest on such judgment, which shall remain unpaid after the said first day of June.

II. Every sheriff, collector, and his security or securities indebted to the commonwealth for taxes, which became due prior to the first day of November one thousand seven hundred and eighty eight, against whom judgment hath been or shall be obtained before the passing of this act, may discharge the same by payment of the principal sum, agreeable to the laws under which he shall have collected it, together with six per centum interest and costs on or before the said first day of June.

III. Where no execution hath been issued on such judgments none shall be issued, until after the said first day of June.

IV. Where an execution hath been issued, the sheriff shall return the same, and it shall be considered in the same manner as an execution would be, where no estate was found; and the solicitor is hereby instructed to issue executions against such sheriffs or collectors immediately after the said first day of June: *Provided always* that it shall not be lawful for the executive to suspend such execution or to remit any part of the

damages or interest on such judgment, which shall remain unpaid after the said first day of June; *Provided also* that any payments, which shall be made by a sheriff or collector, on or before the said first day of June, shall be deducted from any judgment, and damages shall abate in proportion; *Provided also*, that where the executive shall have reason to believe that the postponement of an execution to the said first day of June, might put the debt in danger, it shall be lawful for them to make a special direction for the issuing thereof, and the same shall issue accordingly: But the sheriff, collector, and his security or securities shall be intitled to the same privileges, in consequence of any payment made under the said execution, as if it had been made before the said first day of June, and without an execution issued: *Provided also*, that nothing in this act contained shall be construed to prevent or restrain any sheriff from proceeding against his deputy, or any security from proceeding against his principal, in the same manner as if this act had never been made.

V. And whereas it is just and expedient that securities should have the same rights and remedy against the lands of their principals, as the commonwealth would have had, but for the proceeding against such securities; *Be it further enacted*, That wheresoever the lands of any sheriff or collector would have been bound for any debt due to the commonwealth, they shall be bound in like manner to the security or securities, who may have paid the whole or a part of such debt; and it shall be lawful for the general court to award a like execution against the said lands, on the motion of such securities, to that which would have been issued in behalf of the commonwealth. But ten days previous notice of such motion, shall be given to the principal, his heir or devisee, as the case may be.

VI. If upon the death, refusal to act, or disability of any sheriff, it shall appear proper to the executive to appoint a collector, it shall be lawful for them to make such appointment, and the person so appointed collector shall possess every power and be liable to every penalty which the sheriff himself would have possessed, or been liable to.

When lands of sheriffs bound to commonwealth, they shall be bound to their securities.

Executive may appoint collector of taxes.

CHAP. LXXV.

An act concerning the taxes due in the county of King William, for the year one thousand seven hundred and esghty seven.

[Passed the 27th of December, 1788.]

Holt Richeson, authorized to collect certain taxes in King William.

I. WHEREAS it is represented that John Hickman, sheriff of the county of King William, departed this life some time in the month of March last, without having given bond and security for the collection of the taxes due in the said county for the year one thousand seven hundred and eighty seven; and that Holt Richeson, a deputy sheriff to the said John Hickman, is willing to undertake the collection thereof in case a reasonable time is allowed him to perform the same. *Be it therefore enacted by the General Assembly, That* the said Holt Richeson, upon giving bond and security in the court of the said county of King William, in the penalty required by law for collectors, shall be, and he is hereby vested with as full power to collect and distrain for the taxes due in the said county for the year one thousand seven hundred and eighty-seven, as if he had been sheriff thereof at the time they were payable; and the said Holt Richeson is hereby allowed until the first day of September next to complete the collection of the taxes in the said county for the year one thousand seven hundred and eighty seven; and if he shall fail to make payment thereof into the public treasury on or before the said first day of September, it shall and may be lawful for the solicitor to move for judgment against him or his securities at the next general court, or any other session of the said court subsequent to such failure.

II. The said Holt Richeson shall in all cases respecting the collection of the said taxes, be entitled to the same emoluments and shall be subject to the like penalties and damages as directed in the case of sheriffs and collectors by the several laws for collecting the revenue of this state. *Provided always, That if* the said Holt Richeson shall fail to give such bond and

security as by this act is required at some court to be holden for the said county of King William, on or before the first day of March next, it shall be lawful for the executive to appoint some fit and proper person within the said county to collect the taxes aforesaid, subject to the like rules, regulations and penalties, as are by law provided for securing the collection of the public revenue.

CHAP. LXXVI.

An act to amend the act for regulating the rights of cities, towns, and boroughs, and the jurisdiction of corporation courts.

[Passed the 30th of December, 1788]

I. WHEREAS it is represented to the general assembly that the act, intituled "An act for regulating the rights of cities, towns, and boroughs, and the jurisdiction of corporation courts; ought to be so extended to the courts of hustings of the city of Williamsburg and borough of Norfolk, as to prevent any member of those courts from acting as a county magistrate: *Be it therefore enacted by the General Assembly, That* from and after the passing of this act no person being a member of any court of hustings and of a county court, shall be permitted to exercise both offices; but it shall be optional in such person to declare which of the offices he means to keep possession of: And his election being made known at the first court for the county or corporation which he shall attend, shall be entered of record, and his seat in the county or corporation court, as the case may be, shall thereupon be deemed vacated.

Corporation officers restricted from acting in counties, in what cases.

II. And be it also enacted, That no person holding both offices, shall exercise the power of either until his determination or choice be entered of record as before recited: *Provided,* That nothing in the before recited act shall be construed to affect the jurisdiction of the courts of hustings of the city of Williamsburg, or bo-

Not to affect jurisdiction of Williamsburg or Norfolk.

rough or Norfolk, or either of them, or in any wise to affect the rights or privileges of the common-councilmen of the city of Williamsburg, or borough of Norfolk as heretofore exercised.

CHAP. LXXVII.

An act to amend the act directing the mode of proceeding under certain executions.

[Passed the 29th of December, 1788.]

I. WHEREAS many doubts have arisen in the construction of the act intituled "An act directing the mode of proceeding under certain executions," and the same ought to be explained and amended: *Be it enacted by the General Assembly*, That from and after the passing of this act, the above recited act shall be amended, construed, and expounded as follows, that is to say: wheresoever, on a sale under any execution, the amount of such sale shall exceed the principal, interest and costs, the sheriff or coroner, as the case may be, shall take a separate bond, with sufficient security, from the buyer or buyers, for the payment of such excess or surplus, to the debtor with legal interest, at the end of twelve months from the date thereof, and it shall be expressed in the said bond, that it was given for a surplus or excess as aforesaid.

Execution law explained and amended.

When sale exceeds execution.

Delivery bonds how disposed of.

II. The sheriff or coroner, as the case may be, shall deliver every bond so taken, to the debtor, his agent, attorney, or other legal representative, or shall return it to the clerk's office; and it shall have the same force of a judgment, be assignable, and shall be proceeded on, in all things concerning the same, in like manner as is prescribed in case of bonds given to a creditor under the said act. *Provided always*, That a sheriff or coroner making an unreasonable seizure, shall be liable to be sued, as if this act had never been made.

Penalty for failure.

III. If the sheriff or coroner as the case may be, shall fail to deliver or return, as aforesaid, any bond

taken by virtue of this act, within thirty days from the date thereof, he shall be liable to the same penalty for every month of such failure, to be recovered in the same manner, as is directed by law against a sheriff or coroner failing to return an execution.

IV, The sheriff or coroner, as the case may be, shall be allowed for taking the bonds to the creditor, thirty pounds of tobacco, and no more; for proceeding to sale if the property be actually sold or the debt paid, the commission of five per centum on the first twenty pounds or two thousand pounds of tobacco, and two per centum on all sums above that, and one half of such commission, where he shall have proceeded to sale and the defendant shall have replevied; and no other commission, fee or reward, shall be allowed upon any execution, except for the expence of removing and keeping the property taken.

Sheriff's fee, for bonds and his commissions.

V. Wheresoever, upon the service of a *capias ad satisfaciendum*, slaves or personal estate shall be tendered under the above recited act, to the value of the debt or damages and costs, in the opinion of the sheriff or commissioners, who shall be forthwith summoned to value the same, the sheriff shall receive such slaves or personal estate, and thereupon discharge the debt or out of custody, if the slaves or personal estate so tendered shall not be sufficient to satisfy the debt or damages and costs, or shall be under any lien or incumbrance, so as that the whole or part cannot be sold, a new *capias ad satisfaciendum* or *fieri facias*, at the option of the plaintiff, shall issue for any balance, and the clerk of the court, from which such execution originally issued, shall, upon the return of the sheriff, of the insufficiency or incumbrance as aforesaid, issue a new *capias ad satisfaciendum* or *fieri facias*, if required. But where such slaves or personal estate shall have been under any lien or incumbrance, the debtor shall not be at liberty to tender slaves or personal estate, on a second *capias ad satisfaciendum* being served, or in the case of a *fieri facias* issued in consequence of such return, to avail himself of the privileges of this or the said recited act,

Proceedings where property tendered in discharge of the body.

If under previous lien.

VI. No sheriff or other collector of clerks fees, shall avail himself of this or the above recited act.

VII. Bonds may still be given for the forthcoming of goods or other property at the day of sale, but if the

Other explanations of the execution law.

condition of such bond shall not be complied with, and judgment shall be entered thereupon, the obligors shall be deprived of the benefit of this and the above recited act.

VIII. The fee to the commissioners shall not exceed four shillings per day each, upon any number of executions whatsoever, and shall be paid by the creditor, his agent, attorney, or other representative, and shall be considered as part of the costs, and reimbursed to him accordingly.

IX. The valuers shall make known in every case, to any person requiring the same, before or at the sale, the valuation by them made of the goods or other estate taken in execution.

X. Upon actual sale of any property under this or the said recited act, no principal debtor shall become the security.

XI. The commissioners shall not be summoned upon any fieri facias, the debt or damages whereof do not exceed ten pounds, unless the defendant, his agent, attorney, or other legal representative shall require the same; and where the commissioners shall not be summoned, and the debt or damages shall not exceed the sum aforesaid, the sale shall proceed and the sheriff shall possess and exercise the same power of valuation, as the commissioners would have possessed and exercised, had they been summoned, but shall receive no reward for such valuation.

XII. And to prevent any doubts which may arise, *Be it further enacted*, That nothing in this act contained, shall be altered or in any manner affected by the act intituled "An act for establishing district courts and for regulating the general court:

XIII. So much of every act and particularly of the first recited act, as comes within the purview of this act, shall be, and is hereby repealed.

CHAP. LXXVIII.

An act concerning certain public establishments.

[Passed the 30th of December, 1788.]

I. WHEREAS the operation of the government of the United States will render it unnecessary to maintain several establishments, which at present exist under the laws of this commonwealth; *Be it enacted by the General Assembly*, That so soon as it shall be notified to the executive by congress, that measures have been by them taken concerning duties or imposts, all laws concerning naval officers, collectors of duties and searchers, and their salaries, and concerning duties and imposts of every denomination whatsoever, shall cease and determine; except the duty of six shillings per hogshead on tobacco exported, reserved for inspection duties.

Naval officers
collectors of
duties &c. dis-
continued.

II. The executive shall, upon receiving such notification, publish the same by proclamation, and shall inform all naval officers, collectors of duties and searchers thereof; the said naval officers, collectors of duties and searchers, shall thereupon make up their accounts at the end of the succeeding quarter, subject in case of failure to the same mode of recovery with other public debtors; and shall deliver up all their books and papers of office to the solicitor or his order, and he is hereby required to cause them to be brought to his office, and to be there duly preserved at public expence.

III. The executive shall also, upon receiving such notification, cause the public boats Liberty and Patriot to be discontinued and sold, and all persons belonging thereto to be paid off and discharged.

Boats Liberty
and Patriot to
be sold.

IV. The executive shall also cause the post at the Point of Fork to be reduced, as far as is consistent with the safety and good order of the arms there deposited.

Fort at Point
of Fork reduced.

CHAP. LXXIX.

*An act concerning the territory ceded
by this commonwealth to the United
States.*

[Passed the 30th of December, 1788.]

Cession of
North-west-
ern territory,
modified

I. WHEREAS the United States in congress assembled, did on the seventh day of July, in the year of our Lord one thousand seven hundred and eighty six, state certain reasons shewing that a division of the territory which hath been ceded to the said United States by this commonwealth into states, in conformity to the terms of cession, should the same be adhered to, would be attended with many inconveniences, and did recommend a revision of the act of cession, so far as to empower congress to make such a division of the said territory into distinct and republican states, not more than five, nor less than three in number, as the situation of that country, and future circumstances might require.

And the said United States in congress assembled, hath, in an ordinance for the government of the territory north west of the river Ohio, passed on the thirteenth of July, one thousand seven hundred and eighty-seven, declared the following as one of the articles of compact between the original states and the people and states in the said territory, viz: "That there shall be formed in the said territory not less than three nor more than five states, and the boundaries of the said states, as soon as Virginia shall alter her act of cession, and consent to the same, shall become fixed and established as follows, to wit: The western state in the said territory shall be bounded by the Mississippi, the Ohio, and Wabash rivers; a direct line drawn from the Wabash and post Vincents due north to the territorial line between the United States and Canada; and by the said territorial line to the lake of the Wood and Mississippi. The middle state shall be bounded by the said direct line, the Wabash from post Vincents to the Ohio, by the Ohio by a direct line drawn due north from the mouth of the Great Miami to the said territorial line, and by the said territorial line. The

eastern state shall be bounded by the last mentioned direct line, the Ohio, Pennsylvania, and the said territorial line: *Provided however*, and it is farther understood and declared, that the boundaries of these three states shall be subject so far to be altered, that if congress shall hereafter find it expedient, they shall have authority to form one or two states in that part of the said territory, which lies north of an east and west line drawn through the southerly bend, or extreme of lake Michigan: And whenever any of the said states shall have sixty thousand free inhabitants therein, such state shall be admitted by its delegates into the congress of the United States, on an equal footing with the original states in all respects whatsoever, and shall be at liberty to form a permanent constitution and state government; *Provided*, the constitution and government so to be formed, shall be republican, and in conformity to the principles contained in these articles, and so far as it can be consistent with the general interest of the confederacy, such admission shall be allowed at an earlier period, and when there may be a less number of free inhabitants in the state than sixty thousand:” And it is expedient that this commonwealth do assent to the proposed alteration, so as to ratify and confirm the said article of compact between the original states and the people and states in the said territory; *Be it therefore enacted by the General Assembly*, that the afore recited article of compact between the original states and the people, and states in the territory north west of Ohio river, be, and the same is; hereby ratified and confirmed; any thing to the contrary, in the deed of cession of the said territory by this commonwealth to the United States, notwithstanding.

CHAP. LXXX.

An act to amend the several laws for appropriating the public revenue.

[Passed the 29th of December 1788]

I. FOR appropriating the arrearages of revenue due ^{Appropriation laws a-} for former years, and the revenue of the present year, mended.

Be it enacted, by the General Assembly, That all arrearages which became due any time before the first day of November, in the year one thousand seven hundred and eighty-seven, under any act of the general assembly whatsoever, shall still constitute the aggregate fund. The said aggregate fund shall stand charged with the payment of any sum of money, or quantity of tobacco, coming within the following descriptions, that is to say: First, All warrants which have been issued by the auditor or auditors on or before the thirty-first day of December, one thousand seven hundred and eighty-seven, and all votes of the general assembly for the payment of money or tobacco, which passed during any session prior to that of October, one thousand seven hundred and eighty-seven; provided that such warrants or votes have been charged on any of the branches of revenue arising from the taxes so constituting the aggregate fund as aforesaid. Second, All votes of the general assembly for the payment of money or tobacco, passed during the October session, one thousand seven hundred and eighty-seven, and not otherwise specially provided for. Third, All debts due to any agent of the commonwealth for providing arms, cloathing, or other necessities, and whose accounts have been settled, or shall be settled, in the manner hereinafter prescribed by the executive, or any persons legally authorised to make such settlement. Fourth, All debts due to any persons for goods, wares or merchandises, supplied to the said agents, or any of them, on public account, and who, either have credit for the same on the public books of such agents, or any of them, or whose accounts shall be settled in the manner hereinafter prescribed by the executive, or any persons legally authorised to make such settlement. Fifth, All warrants already issued and placed by the executive on the aggregate fund in pursuance of the thirteenth section of the act, intituled, "An act to amend the laws of revenue, to provide for the support of civil government, and the gradual redemption of the debts due by this commonwealth." Sixth, All warrants hereafter to be issued by the auditor of public accounts, not coming within any of the descriptions aforesaid, for debts contracted prior to the first day of January, one thousand seven hundred and eighty-eight, and for which no funds have been assigned.

but which the executive, having regard to the merits and dignity of the claim, shall think it proper and necessary to place on the said aggregate fund. Seventh, All votes of the general assembly passed before the present session, and not coming within any of the foregoing description of votes, for which no funds have been assigned, but which the executive, having regard to the merits and dignity thereof, shall think it proper and necessary to place on the said aggregate fund.

11. And whereas it appears there will be a considerable surplus of the revenues appropriated to the aggregate fund, beyond what may be necessary to make good the special appropriations charged thereon; *Be it enacted*, that one tenthpart of all the arrearages of taxes which have become due prior to the first day of November, one thousand seven hundred and eighty-nine, shall, as the several payments may be hereafter made into the treasury, be set apart for the use of the sinking fund, such proportion to be taken in money, or tobacco at the price the same shall be paid into the treasury, and disposed of by the executive, in such manner as the governor, with advice of council, may think proper for the benefit of the said fund, in any of the public securities of this state, or of the United States. Second, The executive shall cause any unsettled claim, debt or demand, as aforesaid, to be fairly settled and adjusted, shall take such means as to them shall seem proper for establishing the just value in money of all demands for tobacco, the value whereof hath not been heretofore established, and shall direct the auditor to issue warrants on the aggregate fund, for any of the purposes aforesaid, for which warrants have not already issued. Third, On all warrants already issued on the aggregate fund, the treasurer shall, if required, endorse that the same are payable, and will be received, at the treasury, in discharge of any specie tax, which became due before the first day of November, one thousand seven hundred and eighty-seven. The auditor shall insert in all warrants to be issued as aforesaid, that the same are payable, and will be received at, the treasury in discharge of any specie tax which became due before the first day of November, one thousand seven hundred and eighty-seven. Fourth, And every such warrant endorsed by the treasurer, as aforesaid, or in which the auditor shall

have inserted, as aforesaid, together with all warrants which now are, or shall in this act be declared receivable for any taxes becoming due on or before the said first day of November, one thousand seven hundred and eighty-seven, shall be received as specie by the several sheriffs and collectors within this commonwealth, for any specie tax, which became due before the said first day of November, one thousand seven hundred and eighty-seven. And the said sheriffs and collectors shall account for their several collections of the said taxes, in the same manner, and under the like regulations, as are prescribed in the act passed the first day of December, one thousand seven hundred and eighty-seven, intituled, "An act declaring tobacco receivable in payment of certain taxes for the year one thousand seven hundred and eighty-seven;" *Provided*, that nothing herein contained shall be construed to affect the taxes to be paid to, or collected by, the clerks of the several courts. Fifth, And should warrants chargeable upon taxes becoming due on or after the first day of November, one thousand seven hundred and eighty-seven, be received for taxes which, became due before the said first of November, one thousand seven hundred and eighty seven, the deficiency, which may be occasioned thereby in the aggregate fund, shall be replaced whenever the same shall become necessary, out of the funds upon which the warrants so received were charged. Sixth,

III. *And be it further enacted*, That the revenue which became due on the first day of November, one thousand seven hundred and eighty-seven, and all the branches of revenue arising between that day and the first day of November, one thousand seven hundred and eighty-eight, and not consisting of duties on tonnage, or merchandise imported, or on tobacco exported, shall be appropriated as follows, that is to say: The same appropriations shall remain as were made by the aforesaid act, intituled, "An act to amend the laws of revenue, to provide for the support of civil government, and the gradual redemption of all debts due by this commonwealth;" except that in lieu of the payments directed thereby to be made under the several existing requisitions of congress, the sum of five hundred thousand dollars, accruing to this commonwealth, upon the settlement of the Illinois accounts,

shall go towards the satisfaction of such requisitions: And except also, that the sum of six thousand pounds directed to be applied annually to the purchase of arms and ammunition, shall not be so applied. Any surplus, arising from the revenues last mentioned, shall go in aid of the sinking fund. Seventh,

IV. *And be it further enacted*, That the revenue which became due on the first day of November, one thousand seven hundred and eighty-eight, and all other branches of revenue arising between that day, and the first day of November, one thousand seven hundred and eighty-nine, and not consisting of tonnage, duties or imposts on tobacco, shall be appropriated as follows: First, All the money arising from the slave tax shall be applied to the payment of the interest due, or hereafter to become due, on the certificates granted to the officers and soldiers of the Virginia line, both land and naval, on continental and state establishment, and in aid of the said slave tax, one-half of the money arising from the tax on lands and unimproved lots, shall also be appropriated to the payment of the said interest. Second, The residue of the money arising from the tax on lands and unimproved lots, the surplusage of the taxes appropriated for the military debt, together with all the money arising on taxable property, shall constitute a general fund, which shall be charged with the payment of any sum of money coming within the following descriptions, that is to say: First, Warrants or certificates for pensions, becoming due after the thirty-first day of December, one thousand seven hundred and eighty-eight. Second, Warrants issued for the contingent expences of government, as far as ten thousand pounds, after the thirty-first day of December, one thousand seven hundred and eighty-eight. Third, Warrants issued for the interest of the loan-office debt, arising after the thirty-first day of December, one thousand seven hundred and eighty-eight. Fourth, Warrants issued for the interest arising on paper money of this state funded after the thirty-first day of December, one thousand seven hundred and eighty-eight. Fifth, Warrants issued for the services of scouts and rangers. Sixth, warrants issued after the thirty-first of December, one thousand seven hundred and eighty eight, to venire-men, witnesses, and apprehenders of horse-stealers; to persons entitled to

the valuation of slaves executed; for the use of the Potowmack and James river companies; the post at the Point of Fork, and the lunatic hospital. Seventh, Warrants issued after the thirty-first of December, one thousand seven hundred and eighty-eight, for the wages and salaries of the officers of civil government, including the general assembly: Any surplus to go to the sinking fund. The money arising from the tax on law process, recording of wills and deeds, the seal of the commonwealth, and the register's office, after the first day of November, one thousand seven hundred and eighty-eight, shall be appropriated to the payment of the salaries and allowances to the judges of the superior courts: Any surplus to go to the sinking fund. The money arising from the act, intituled, "An act imposing new taxes," shall be appropriated to the wages and salaries of the officers of civil government: Any surplus to go to the sinking fund. Any warrants heretofore issued, or which shall hereafter issue, for the salaries of the officers of civil government; for interest on the certificates granted to the officers and soldiers, land and naval, on continental and state establishment, for their arrears of pay and depreciation; for pensions; for the contingent expences of government; for the interest of the state loan office debt, and of the paper money of this state funded; to venire-men and witnesses in criminal prosecutions; to apprehenders of horse-stealers; for slaves executed; for the shares in the Potowmack and James river companies; for the post at the Point of Fork, and the lunatic hospital; shall be receivable as specie in discharge of any of the taxes which became due on the first day of November, one thousand seven hundred and eighty-eight, or which shall become due before the first day of November, one thousand seven hundred and eighty-nine; and the several sheriffs and collectors, upon the payment thereof into the treasury, shall have credit for the same accordingly. *Provided*, That nothing herein contained, shall be construed to affect the taxes to be paid to, and collected by, the clerks of the several courts.

V. But inasmuch as the funds in this act assigned for the payment of the wages and salaries to the officers of civil government, the post at the Point of Fork, the lunatic hospital, the scouts and rangers, and the shares in the James river and Potowmack companies,

may not be productive early enough for those purposes respectively, *Be it enacted*, That if the said funds should not be productive as aforesaid, it shall be lawful for the executive to direct the treasurer to borrow the same out of any other fund, and to replace the money so borrowed as soon as possible, retaining a sum sufficient for the discharge of the salaries of the judges, in preference to every other payment charged on the said fund; provided they shall be of opinion that any deficiency will accrue in the funds assigned for that purpose.

VI. *And be it further enacted*, That all the revenue arising from the duties arising from tonnage, and merchandise imported, and tobacco exported, shall remain appropriated as heretofore, until the cessation thereof under the authority of this commonwealth: And should there be any surplus, the same shall go in aid of the sinking fund.

VII. And that the said fund may receive every possible increase, *Be it further enacted*, that the executive shall cause warrants to be issued for the interest accruing on all military certificates, which heretofore have, or hereafter shall, by any means come into the treasury; and that they direct the said warrants to be applied to the purposes of the sinking fund, in such manner as to them shall seem best. Warrants heretofore granted to the foreign creditors, by order of the executive, and charged upon the impost, shall be admitted in payment of any bonds for duties on goods imported, except the duties on tonnage, and the duty of two per cent, on merchandise imported in vessels belonging to subjects or citizens of any state or power not in commercial treaty with the United States. The tobacco destroyed by fire in Byrd's warehouse shall be paid, agreeable to the report of the commissioners appointed to ascertain the loss, out of the money arising from the surplus of the inspection of tobacco, in such dividends as the state of the treasury will, in the opinion of the treasurer, admit.

VIII. So much of all and every act and acts, as comes within the purview of this act, shall be, and is, hereby repealed.

CHAP. LXXXI.

An act concerning the erection of the district of Kentucky into an independent state.

[Passed the 29th of December 1788.]

Further provision for erection of district of Kentucky into an independent state.

1. WHEREAS it is represented to this general assembly, that it is the desire of the good people in the district of Kentucky, that the same should be separated from this commonwealth whereof it is a part, and be formed into an independent member of the American confederacy; and it is judged that such a partition of the commonwealth is rendered expedient, by the remote situation of the more fertile and populous part of the said district, and by the interjacent natural impediments to a convenient and regular communication therewith: *Be it enacted by the General Assembly*, that in the month of May next, on the respective court days of the counties within the said district, and at the respective places of holding courts therein, representatives, to continue in appointment for one year, and to compose a convention with the powers and for the purposes hereinafter mentioned, shall be elected by the free male inhabitants of each county above the age of twenty-one years, in like manner as delegates to the general assembly have been elected within the said district, in the proportions following: In the county of Jefferson, shall be elected five representatives; in the county of Nelson, five representatives; in the county of Fayette, five representatives; in the county of Bourbon, five representatives; in the county of Mercer, five representatives; in the county of Lincoln, five representatives; in the county of Madison, five representatives; in the county of Woodford, five representatives; and in the county of Mason, five representatives: *Provided*, that no free male inhabitant above the age of twenty-one years shall vote in any other except the county in which he resides. That full opportunity may be given to the good people of exercising their right of suffrage on an occasion so interesting to them, each of the officers holding such elections shall continue the same from day to day, passing over Sunday, for five

days, including the first day; and shall cause this act to be read on each day immediately preceding the opening of the election, at the door of the courthouse, or other convenient place. Each of the said officers shall deliver to each person duly elected a representative, a certificate of his election, and shall moreover transmit a general return to the clerk of the supreme court, to be by him laid before the convention. For every neglect of any of the duties hereby enjoined on such officer, he shall forfeit one hundred pounds, to be recovered by action of debt, by any person suing for the same. The said convention shall be held at Danville, on the twentieth day of July next, and shall and may proceed, after choosing a president, and other proper officers, and settling the proper rules of proceeding, to consider and determine whether it be expedient for, and be the will of, the good people of the said district, that the same be erected into an independent state, on the terms and conditions following: (First) That Conditions. the boundary between the proposed state and Virginia shall remain the same as at present separates the district from the residue of the commonwealth: (Second) That the proposed state shall take upon itself a just proportion of the public and domestic debt of this commonwealth: (Third) That all private rights and interests in lands within the said district, derived from the laws of Virginia prior to such separation, shall remain valid and secure under the laws of the proposed state, and shall be determined by the laws now existing in this state: (Fourth) That the lands within the proposed state of non-resident proprietors shall not in any case be taxed higher than the lands of residents at any time prior to the admission of the proposed state to a vote by its delegates in congress, where such non-residents reside out of the United States, nor at any time either before or after such admission, where such non-residents reside in this commonwealth, within which this stipulation shall be reciprocal: or where such non-residents reside within any other of the United States, which shall declare the same to be reciprocal within its limits, nor shall a neglect of cultivation or improvement of any land within either the proposed state or this commonwealth, belonging to non-residents, citizens of the other, subject such non-residents to forfeiture or other penalty within the term of six years af-

ter the admission of the said state into the federal union: (Fifth) That no grant of land, nor land-warrant to be issued by the proposed state, shall interfere with any warrant heretofore issued from the land-office of Virginia, which shall be located or laid within the said district, now liable thereto on or before the first day of September, one thousand seven hundred and ninety. (Sixth) That the unlocated lands within the said district, which stand appropriated by the laws of this commonwealth to individuals, or descriptions of individuals, for military or other services, shall be exempt from the disposition of the proposed state, and shall remain subject to be disposed of by the commonwealth of Virginia, according to such appropriation, until the congress of the United States shall receive the proposed state into the federal union; and thereafter the residue of all lands remaining within the limits of the said district shall be subject to the disposition of the proposed state; saving and reserving to the officers and soldiers of the Virginia lines, on state and continental establishment, their representatives and assignees, their rights to lands under the several donations of this commonwealth, who shall not be restrained or limited as to time in making their respective locations, or completing their surveys by any thing in this act contained, nor by any act of the proposed state, without the future consent of the legislature of Virginia. (Seventh) That the use and navigation of the river Ohio, so far as the territory of the proposed state, or the territory which shall remain within the limits of this commonwealth lies thereon, shall be free and common to the citizens of the United States; *Provided however*, that five members assembled shall be a sufficient number to adjourn from day to day, and to issue writs for supplying vacancies which may happen from deaths, resignations, or refusals to act; a majority of the whole shall be a sufficient number to choose a president, settle the proper rules of proceeding, authorize any number to summon a convention during a recess, and to act in all other instances where a greater number is not expressly required; two thirds of the whole shall be a sufficient number to determine on the expediency of forming the said district into an independent state on the aforesaid terms and conditions; provided that a majority of the whole number to be elected concur therein.

II. *And be it further enacted*, that if the said convention shall approve of the erection of the said district into an independent state, on the foregoing terms and conditions, they shall and may proceed to fix a day posterior to the first day of November, one thousand seven hundred and ninety, on which the authority of this commonwealth and of its laws, under the exceptions aforesaid, shall cease and determine forever over the proposed state, and the said articles become a solemn compact mutually binding on the parties, and unalterable by either, without the consent of the other. *Provided however*, that prior to the first day of September, one thousand seven hundred and ninety, the congress of the United States shall assent to the erection of the said district into an independent state, and shall agree that the proposed state shall immediately after the day to be fixed as aforesaid, posterior to the first day of September, one thousand seven hundred and ninety, or at some convenient time future thereto, be admitted into the federal union. And to the end that no period of anarchy may happen to the good people of the proposed state, it is to be understood that the said convention shall have authority to take the necessary provisional measures for the election and meeting of a convention at some time prior to the day fixed for the determination of the authority of this commonwealth and of its laws over the said district, and posterior to the first day of September, one thousand seven hundred and ninety, aforesaid, with full power and authority to frame a fundamental constitution of government for the proposed state, and to declare what laws shall be in force therein, until the same shall be abrogated or altered by the legislative authority acting under the constitution so to be framed and established. *Provided*, that no act of the said convention, or of the legislature of the proposed state, shall invalidate or affect the rights, titles, or interests, of any person, or description of persons, herein before secured or guarded.

III. This act shall be transmitted by the executive to the representatives of this commonwealth in congress, who are hereby instructed to use their endeavours to obtain from congress a speedy act to the effect above specified.

CHAP. LXXXII.

*An act for improving the navigation
of Appamattox river, from Broad-
way to Pocahuntas bridge.*

[Passed the 30th of December, 1788]

I. WHEREAS it hath been represented to the present general assembly, that the navigation of Appamattox river might be greatly improved by deepening the channel from Pocahuntas bridge to Broadway, so as to admit large vessels to go up to the town of Petersburg: *Be it therefore enacted by the General Assembly,* That books shall be opened in the town of Petersburg, on the first day of February next, under the management of Robert Bolling, junior, Joseph Jones, Theodrick Bland, Christopher M'Conico, Thomas Griffin Peachey, James Campbell, Edward Pegram, and William Barksdale, for receiving subscriptions for the purpose of deepening the channel of the said river. The subscriptions shall be made personally or by power of attorney, and shall be in current money, and paid in gold or silver coin at the current value. The capital to be subscribed for the purpose aforesaid, shall be ten thousand pounds, and shall be divided into two hundred shares of the value of fifty pounds each. Any person may subscribe one or more whole shares, but no subscription shall be received for less than one share.

II. So soon as one half of the said capital shall be subscribed, the managers herein before named, shall by advertisement in the Petersburg gazette, call a general meeting of the subscribers at the said town of Petersburg. The subscribers who are present at the said meeting shall choose a president, and four directors, and thereafter the subscribers, their heirs and assigns, shall be incorporated into a company, by the name of the Appamattox company, and by that name may sue and be sued. The president and directors shall continue in office for one year, and from thence until the next meeting of the company; and they, or a majority of them, shall have full power to receive subscriptions un-

til the before mentioned capital is completed: to contract with any persons on behalf of the company to perform such works as they judge necessary for deepening the channel of the said river from Pocahuntas bridge to Broadway, and for keeping the same open: to appoint such officers as they deem necessary to be employed in the service of the company: to call a meeting of the company, when necessary, to receive from the subscribers the sums respectively subscribed by them, at such times, and in such proportions, as they shall judge proper: and to transact all the other business and concerns of the said company.

III. If any member shall fail to pay to the person authorised by the president and directors to receive the same, the proportion of the subscription required of him within one month after such requisition is made in the Petersburg gazette, the said president and directors may recover the same by motion in the general or district court, in the same manner as the president and directors of the James river and Potowmack companies, can recover the arrears due from any member of the said companies.

IV. There shall be a meeting of the said Appamattox companp, on the first Monday in May in every year, at which members, or their proxies, having one hundred and five shares at the least, shall be present, and at any intermediate meeting, members or proxies, having sixty shares, shall be sufficient.

V. If a sufficient number of members be not present on the first day; the meeting may be adjourned from day to day, until a sufficient number attend. In counting the votes, each member shall be allowed one vote for every share, as far as ten shares, and one vote for every five shares after ten. The said company at their annual meeting, or at any other meeting called by the president and directors, may call upon them for an account of their proceedings and contracts, for the execution of the plan for deepening the said river, and of the money received and disbursed by them, and may allow them a sum for their services: may displace the said president and directors, or any of them, and appoint others in their stead: may lower the tolls hereinafter allowed them, and may exempt any vessels from the payment thereof: And shall, after leaving in the hands of the president and directors a sufficient

sum for the expences attending the repairs of the said works, and other contingent charges, make an equal dividend of the nett profits arising from the tolls and other profits thereof amongst themselves according to their respective proportions. In consideration of the expences that will be incurred by the said company in deepening the bed of the said river and keeping the same open, the members of the said company, their heirs and assigns, shall be entitled to the tolls herein after mentioned, for ever, as tenants in common, in proportion to their respective shares, and the same shall be deemed real estate, and be for ever exempt from the payment of any tax or imposition whatsoever.

VI. And it shall and may be lawful for the said president and directors, to demand and receive at the place called the Bakehouse, on the said river, or at such other places above that as the said president and directors shall appoint, tolls from vessels drawing upwards of five feet of water, for their passage by or through the said places, according to the following table and rates, to wit: On vessels of five and half feet, three shillings per foot; on vessels of six feet, three shillings and nine pence per foot; on vessels of six and half feet, four shillings and six pence per foot; on vessels of seven feet, five shillings and three pence per foot; on vessels of seven and half feet, six shillings per foot; on vessels of eight feet, six shillings and nine pence per foot; on vessels of eight and half feet, seven shillings and six pence per foot; on vessels of nine feet, nine shillings per foot; on vessels of nine and half feet, eleven shillings and three-pence per foot; on vessels of ten feet, fifteen shillings per foot; on vessels over ten feet, and not more than twelve feet, twenty shillings per foot; and on all vessels over twelve feet, one pound five shillings per foot. Which tolls are rated in money, and may be discharged in gold or silver coin at their current value.

VII. The tolls herein before allowed to be demanded and received, shall be paid on condition only, that the said Appamattax company shall make the said river capable of being navigated in any season, from Broadway to Pocahuntas bridge, by vessels drawing twelve feet water, and in case the company shall not begin the said work within two years after the company shall be formed, and compleat the same within se-

ven years after it is begnn, then the said company shall not be intitled to any benefit or privilege under this act.

VIII. If payment of the said tolls shall be refused, when any vessel from which the same are demandable offers to pass by or through the said places herein before named, the collectors may lawfully refuse to such vessel; and if any such vessel shall pass without paying the said tolls, the master, skipper, or owner of such vessel, shall forfeit and pay to the said Appamattox company, the sum of two ponnds for every foot of water which it may draw; to be recovered on motion and ten days notice, in any court of record within this commonwealth. The said river and the channel thereof when deepened as aforesaid, shall forever be considered and taken as a public highway for the passage of all vessels, and transportation of all commodities, upon payment of the tolls aforesaid; and no other tax or toll shall at any time hereafter be imposed for the use of the water of the said river; but the said river shall nevertheless be subject to such regulations, as may be prescribed by the laws of this state or the United States. The shares in the said company shall to all intents and purposes be held and transferred by the proprietors thereof, in the same manner and on the same conditions, as the shares of the proprietors in the James river and Potowmack companies.

IX. Nothing herein contained shall be construed to prevent vessels drawing less than five and an half feet water, from using and navigating the said river Appamattox, in the same manner as if this act had never been made: *Provided always*, That nothing herein contained shall be construed to affect the private right of any individual owning a fishery on the said river.

CHAP. LXXXIII.

An act to punish bribery and extortion.

[Passed at the October session of assembly, in the year one thousand seven hundred and eighty-six, and now republished by a resolution of assembly of the 19th of December 1788, with marginal notes shewing the errors in the former publication.]

Bratta in the former publication.

Between the words 'judge and 'clerk' in third line are inserted the words 'or attornies at law, practising either in the general court, high court of chancery, court of appeals, court of admiralty or inferior courts' which are not in the roll.

The word 'other' in the roll after the words 'nor any' is omitted.

1. *BE it enacted by the General Assembly, That* no treasurer, keeper of any public seal, councillor of state, counsel for the commonwealth, judge, clerk of the peace, sheriff, coroner, escheator, nor any other officer of the commonwealth shall, in time to come, take, in any form, any manner of brokage or reward for doing his office other than is, or shall be, allowed by some act of general assembly passed after the institution of the commonwealth, that is to say, after the fifteenth day of May in the year of our Lord one thousand seven hundred and eighty-six. And he, that doth, shall pay unto the party grieved, the treble value of that he hath received, shall be amerced and imprisoned at the discretion of a jury, and shall be discharged from his office forever. And he who will sue in the said matter shall have suit as well for the commonwealth as for himself, and the third part of the amercement.

END OF TWELFTH VOLUME.

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